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THE NEW GOVERNMENT IN GERMANY[1]

WALTER JAMES SHEPARD

University of Missouri

The revolution in Germany strikes the observer as different in essential respects from revolutions which have taken place in other countries. One looks, in such events, for a few short days of blood and battle; for power wrested by force from the grip of those who have held it; for popular turmoil, the citizenry waging conflict behind street barricades against the disciplined but gradually disintegrating and increasingly disaffected troops of the established government—in short, for a *journée* in which the overturn is speedily accomplished and the new régime quickly set up. But the German revolution affords no such spectacle. There has been, to be sure, street-fighting and bloodshed, but they have been incident to the attempt of the extremists to overthrow the revolutionary government or to compel it to undertake a more radical program. The revolution itself was bloodless, and the establishment of the provisional government under Ebert was only the last step in a crumbling process which had been evident during the latter part of the

[1] Previous issues of the REVIEW have contained summaries of the internal political developments in Germany during the war to the abdication of William II, in November, 1918.

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administration of Count von Hertling and the whole of that of Prince Max. Not only were a number of radically liberal measures inaugurated during this period, but the ministry of Prince Max included three Socialists, one of them being Philipp Scheidemann, later to become prime minister of the new republic.

Friedrich Ebert's accession to the chancellorship was proclaimed by his predecessor, and the personnel of administration, even in the higher posts, was changed but little. Except for the abdication of the Kaiser and the lesser monarchs, the renunciation of his rights by the crown prince, and the announcement that the government was provisional, pending the convening of a national assembly for the purpose of forming a new constitution for Germany, the events might easily have been brought within the category of orderly legal development. It is true there had been mutinies among the sailors at Kiel and soldiers' and workmen's councils were established in a number of places; but it can scarcely be said that the government was unable to cope with these sporadic disturbances. On the whole the people were quiet and remained so for some time. It was a revolution which was not at all a revolution, and therein lies the key to the events of the succeeding seven months.

In order to understand the complex situation in Germany during this period it is necessary to review briefly the political forces which have been contending among themselves for power. Soon after the revolution all the political parties were reorganized, adopting new names, though they remained essentially unchanged in character and principles. The old Conservative (Junker) party and its minor allies were reconstituted under the name of the German National People's party, with Count Westarp and Baron von Gamp as its leaders. Frankly Pan-Germanists, conservative, militarist and monarchist in principle, this party is awaiting a favorable moment for inaugurating the counter-revolution. As they do not see any immediate prospect for this, they are, on the whole, extremely despondent. They are the "*Swarzseher*" of the present régime. Their political activity is directed toward strengthening the army, toward a strong and ruthless policy of repression against all Bolshevist movements, and es-

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pecially do they denounce any suggestion that peace should be made on terms that would deprive Germany of her colonies, or limit her future career as a world power. They have learned nothing and forgotten nothing during the past five eventful years.

Most of the old National Liberal party have joined the German People's party, under the leadership of Dr. Stresemann, whose real program is hidden behind vague promises of peace, freedom, order and bread. They are, in fact, very little changed. While declaring themselves ready to collaborate with the republic they are, in truth, attached to the old times. They understand the futility of a counter-revolution, as the Hohenzollerns have made themselves impossible forever in Germany; but they have no enthusiasm for a republic. Indeed the leader late in April announced adherence to the monarchical principle. Among their election pledges, in certain states, are promises of vigorous support of the interests of German citizens resident in foreign countries. They demand an improved diplomatic and consular service. They seem to prefer Allied occupation to a peace that they would consider ruinous to their interests. Representing the great industrial and commercial elements in the country, their attitude on most political questions differs only from that of the German National People's party in being somewhat less outspoken.

The old Catholic Center has been rechristened the Christian People's party, and acknowledges the leadership of Dr. Spahn and Herr Erzberger. It is making a not very successful effort to attract adherents of other faiths to its banner. It is considerably less intransigeant than the other two parties of the Right, has not refused to support the government on occasion, and in the person of its leader Erzberger has indeed shared in governmental councils. It is still, however, the guardian of Church interests and may be expected to approach every political question, even in the momentous circumstances of the present, from this peculiar angle.

These three parties of the Right are capitalistic, though occasionally admitting the principle of socialization in vague terms and with many restrictions. Their hatred of England is still

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bitter, and they can scarcely hide their hope of revenge. They maintain that it is the Entente's intention to allow the Bolsheviki to overrun Germany, and they use the Bolshevist menace to private property as a means to secure votes. They have all opposed the measure of the Prussian minister of education for separation of church and state, and the government's order against officers wearing distinctions of rank and swords. They have adopted the motto "March separately, fight together," and while there is no formal alliance, there appears to be sufficient unity of action among them.

On the Left, a new German Democratic party has been formed out of the old Progressive People's party and a part of the National Liberals, under the leadership of a group of very able men, including Herren Fischbeck, Conrad Haussman, Theodor Wolff and Professor Hugo Preuss. This party is out and out republican, in favor of gradual socialization, at least of natural monopolies, with few reservations, but decidedly opposed to spoliatory legislation. They favor free trade, the separation of church and state, and are strongly attached to the principle of the League of Nations. Although predominantly *bourgeois* in character, they are collaborating whole-heartedly with the Majority Socialists and share with that party the control of the government. Among their ranks are a large number of men of high technical training and ability, whose assistance is indispensable at this time. Their leaders are inclined to take a rather sanguine view of the situation. They believe that Germany will develop sufficient strength to check Bolshevism and will recover from the present crisis in a reasonable time.

The Social Democratic party of the early years of the war eventually split on the question of voting war credits. The dissenting minority seceded and formed the Independent Socialist party. The Majority Socialists continued to support the war until the defeats on the western front in the summer and autumn of last year made it clear to the world that the German cause was hopeless. Led by Ebert and Scheidemann, it is this party that has been chiefly in control of the government since events culminated in the abdication of the Kaiser and the resig-

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nation of Prince Max in November. Their program included gradual socialization, popular election of judges and officials, a steeply graduated income tax and the separation of church and state. They, of course, are republican and favor a League of Nations. In principles they differ but little from the German Democratic party; their membership is, however, chiefly proletarian, instead of *bourgeois*. *Vorwärts* is their mouthpiece.

The Independent Socialists are led by Herr Haase. They opposed the war during the last two years of its course. They support all proposals of political reform. They stand firmly on the Socialist Erfurt program of 1891; and demand immediate socialization, without restrictions or reservations. They favor the conclusion of immediate peace on the Allied terms. At first inclined to collaborate with the Majority Socialists and to support the government, they have drifted more and more into opposition as the government has tended more and more toward the Right. The Independent Socialists are, in fact, divided into two wings: the Right, which has on the whole supported the government, and may be ultimately absorbed by the Majority Socialists; while the Left, which appears now to be the stronger, approaches the Spartacists, and may eventually be amalgamated with them.

Finally on the extreme Left are the Spartacists, or Communists. In general purpose and principle they are closely affiliated with the Russian Bolsheviki, from whom, moreover, they have received constant and considerable financial support. There has been a well-organized Russian Bolshevist propaganda in Germany, four hundred propagandists who were trained by Schomel, a Bolshevist missionary, at his propagandist school in Moscow, having been sent to Berlin some time before the armistice. Later a similar school was started in Germany. It is said that a daily courier service is maintained through the lines between the Russian agents in Berlin and Moscow. The Spartacists are the German Bolsheviki. They are ultra-internationalists, being avowed enemies of the capitalist and *bourgeois* state. They would deny all share in the government to the capitalist and

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bourgeois classes; abolish all public offices in the civil service and the army, as well as taxes and national debts; and substitute a workmen's militia for the army. They are not so numerous as one might think from the noise and confusion they are causing, but they make up in fanaticism. They were opposed to, and did all in their power to prevent, the convening of the constituent national assembly. Direct action, not elections, is the weapon on which they rely. It is this group which is responsible for the almost continuous series of strikes, some of which have assumed the proportions of general strikes, which have so greatly increased the economic distress of the country. It is they also who have opposed the government by force, attempting its overthrow and the establishment of a soviet republic on the Russian model.

Successful for a time in various cities, and notably in Munich, they have eventually in every instance been defeated. They wish to prevent the signing of peace and to force the Entente to undertake the military occupation of Germany, which they believe will result in a world-wide spread of Bolshevism, the overthrow of the capitalist régime and the establishment of international socialism. Drawn for the most part from the industrial proletariat, their membership also includes a considerable number of younger peasants who have returned from the army. Their leaders have been Karl Liebknecht and Rosa Luxemburg (both killed on January 15 under circumstances not yet fully clear), Ledebour, Levien and Eichhorn.

The provisional government, established under the chancellorship of Friedrich Ebert on November 9, 1918, was composed of three Majority and three Independent Socialists, though most of the high officials of the previous régime were retained in office. It accepted the armistice on November 11 and announced a policy of concluding peace at the earliest possible moment, of immediately inaugurating measures for economic reconstruction, and the convening of a constituent national assembly to be elected on the broadest possible suffrage. In December the date of the election for this body was announced as January 19,

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1919. On November 28 the former Kaiser's abdication, in which he renounced for himself for all time his rights to both the imperial and the Prussian thrones, and a similar renunciation by the crown prince were published. On December 28 disagreements between the two sections of the cabinet, growing out of the Spartacist disturbances in Berlin on Christmas Eve, led to the retirement of the Independents, Herren Barth, Haase and Dittman, leaving the Majority Socialists in entire control. With no legal support for the power which they were exercising, and mindful of the fact that, in any case, they represented but one party in the country, they could only pursue a temporizing policy until the meeting of the national assembly. They were bitterly accused of weakness by the parties of the Right for not dealing more rigorously with the Spartacist outbreaks.

Elections for the national assembly were held under the law of November 30, which provided for universal manhood and womanhood suffrage for all citizens over the age of twenty. On the basis of the population before the war this would give an electorate of 39,000,000 (21,000,000 women and 18,000,000 men). However, elections were forbidden in Alsace-Lorraine, and the vote in the Polish provinces was light. Excluding these, a very heavy vote was polled, approximately 90 per cent of the eligible voters participating. A great flood of election pamphlets and posters, and numerous canvassing processions had aroused a tremendous popular interest. Even the sick and crippled were carried to the polls. This heavy vote proves that the Ebert government was able to afford adequate protection to the voters, in the face of determined efforts by the Spartacists to prevent the election of a national assembly. It also proves that women participated quite generally; and that the people understood the importance of the decision which they were called upon to render.

The following table shows the voting strength of the different parties (disregarding the Poles and other sectional groups) as compared with the last previous election of 1912. The Spartacists placed no tickets in the field and either refrained from voting or supported the candidates of the Independent Socialists.

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PARTIES	ELECTION 1919		ELECTION 1912	
	No. of votes	Per cent	No. of votes	Per cent
Socialist				
Majority	11,130,452	38.7		
Independent	2,187,305	7.6		
Total	13,317,757	46.3	4,250,400	34.7
Democrats	5,261,187	18.3	1,497,000	12.2
Center	5,686,104	19.7	1,996,800	16.3
Conservatives	2,408,387	8.4	1,493,500	12.2
National Liberals	1,473,975	5.1	1,662,700	13.6

Assuming that Alsace-Lorraine would be allowed to vote, the country was divided into thirty-eight electoral districts, each choosing from 6 to 17 members, or 433 in all. With Alsace-Lorraine eliminated, 421 members were actually elected in thirty-seven districts. The method employed in the election was a list system of proportional representation, each party nominating a list of candidates equal to the number of members to which the district was entitled. Every vote cast was counted as a vote for a particular list. The law permits parties to combine their lists, but no such combinations were used in this election. After disregarding the votes of minor parties which cast less than the quotient obtained by dividing the total vote of the district by the number of seats, the votes of the successful parties are divided successively by the numbers 1, 2, 3, 4, 5, etc., and the largest figures up to the number of seats give the number of representatives each party is entitled to. In case a minor party, whose total vote is less than the quotient, should poll more votes than the smallest quotient, it would be assigned the seat instead of the major party, to which had already been assigned one or more representatives.

An example of the results of the election, in the Münster, Minden and Schaumburg-Lippe district, illustrates the system. This district was entitled to elect thirteen members. The total vote and the quotients obtained by the method described above are indicated in the following table. In this particular case the

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	CENTER	MAJORITY SOCIALISTS	DEMOCRATS	CONSERVATIVES	NATIONAL LIBERALS
Total vote	405,871	290,831	94,186	81,389	62,799
Divided by 2	202,935	145,415			
Divided by 3	135,290	96,943			
Divided by 4	101,468	72,708			
Divided by 5	81,174				
Divided by 6	67,645				

National Liberals did not poll one-thirteenth of the votes cast but nevertheless obtained one representative.

It will appear from this table that the allocation of seats would give the Center the first, third, fifth, sixth, tenth, and twelfth; the Majority Socialists the second, fourth, seventh and eleventh; the Democrats the eighth; the Conservatives the ninth, and the National Liberals the thirteenth.

The result of the election was as follows: The Majority Socialists secured 165 seats; the Christian People's party (Center), 91; the German Democratic party (Progressives), 75; the German National People's party (Conservatives), 38; the German People's party (National Liberals), 22; the Independent Socialists, 22; and various other sectional and minor parties, 8.

As compared with the composition of the last Reichstag (which it must be remembered had only 397 members) the Majority Socialists have gained greatly, now holding 39 per cent of the seats as against 27.5 per cent held by both branches of the party in the old body. The Conservatives have lost equally heavily, dropping from 17.9 per cent to 9 per cent. The strength of the Center has not been greatly altered, there being a slight loss from 22.2 per cent to 20.7 per cent. The National Liberals have decreased in strength from 11.3 per cent to 5.2 per cent. The Democratic (Progressive) party has gained from 11.6 per cent to 18 per cent.

It will thus be seen that there has been a heavy movement toward the Left. This can largely be accounted for by the fact that the old negative gerrymander resulting from a failure since 1870 to redistrict the country has now been eliminated; and partly by the system of proportional representation now used

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for the first time. While there has been some shifting in opinion, it has been less than might have been expected. No party has an absolute majority in the Chamber, and what had been expected now became quite evident, viz., that any ministry which might command the confidence of this body would have to be coalition in character. The election, however, did much to clear the situation and to strengthen the Ebert government. It is of interest to observe that twenty-four women secured seats in the new assembly.

The government announced the convening of the national assembly for February 6, at Weimar, the continual strikes and the constant Spartacist disturbance making Berlin an undesirable place. This decision was, however, bitterly assailed by the Independent Socialists. As the day approached the Spartacists became increasingly turbulent and there was serious doubt whether the assembly would be permitted to meet. The leaders of the soldiers' and workmen's councils called a general congress of these councils in Berlin for the same date, in order to indicate their lack of confidence in the government, and to confuse the situation as much as possible. The government, however, was able to afford ample protection and the assembly convened without incident. The orderliness of the assembly made a good impression. The body displayed a high degree of coherence, and except for the Independent Socialists who had desired to postpone its meeting and now would have, if possible, frustrated its efforts, there was no disturbing element. The opening address by Herr Ebert was largely devoted to a vehement protest against the terms which the Allies had submitted for a renewal of the armistice. He asserted Germany's right to enter the League of Nations on equal terms, and demanded that German Austria be permitted to join the republic. Dr. David David, a Majority Socialist, was chosen president of the assembly, but on his entering the cabinet this post was filled by Herr Fehrenbach, the former Centrist president of the Reichstag. The voting for president and vice-president of the assembly indicated that a working understanding had been reached among the three major parties.

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An executive was organized by electing Herr Ebert as President of the republic. He was voted a salary with entertainment expenses of about $240,000 per annum. He will also occupy the Bellevue Palace in Berlin as his official residence. He announced that as president he would not be a party man but maintain the two principles of his career, viz., pacifism and a stout adherence to the principles of a League of Nations. His first official act was to ask Herr Scheidemann to form a ministry. In this cabinet, consisting of fourteen members, the Majority Socialists had seven seats, the Democrats three and the Center three. Count von Brockdorff-Rantzau, whose politics are uncertain, held the post of minister of foreign affairs. The new chancellor announced the task of the government in the immediate future to be: (1) The maintenance of the unity of the state by means of a strong central authority; (2) the immediate conclusion of peace; (3) adherence to President Wilson's program; (4) rejection of any peace of violence; (5) restoration of Germany's colonial territories; (6) immediate repatriation of German prisoners; (7) admission of Germany into the League of Nations with equal rights; (8) general and reciprocal disarmament; (9) the constitution of general arbitration courts; (10) the abolition of secret diplomacy.

The national assembly and the new government appear to have started with as large a degree of popular confidence as was possible in the circumstances. By many the assembly was looked upon as a sort of cure-all for the ills from which the state was suffering. The Majority Socialist-Democratic-Centrist *bloc* represented 77 per cent of the assembly, and might expect to command the active support of an equal proportion of the people. It is true that the personalities of Ebert, Scheidemann and Erzberger did not arouse enthusiasm, but this was a democratic régime, and doubtless the change from the aloofness and pomp of royal courts and aristocratic ministers to these simple burgers was a welcome one to many.

It required only a short time, however, to show that neither the assembly nor the executive could command the respect of the nation. The former lost itself in interminable debate. There

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is none of the rapid cross-fire of questions and interruptions which give the proceedings of the house of commons a never-failing interest. Rather do long-winded party-hacks indulge in what appear to be copybook speeches. One remembers that it was this same tendency to speech-making that contributed largely to the futility of the Frankfort Parliament in 1848. Furthermore, in spite of the new basis of election, it developed that most of the leaders of the Reichstag were returned to the assembly, and the membership in general was much the same. Where new men of ability were elected they have been regarded as political upstarts and deprived of influence by the traditionalized and hide-bound fogeys who were in control. They have not been appointed to important positions on the committees or given a chance to be heard. Within two months of its convening the assembly was being generally criticized in the press as having completely failed to rise to the occasion, and by June it had almost ceased to attract any attention.

Nor has the experience of the government been much happier. Inclining more and more to the Right in its policy, it aroused increasingly bitter opposition from the Independent Socialists and Spartacists. A considerable number of Majority Socialists, indeed, became disgusted at what appeared to be its lukewarmness in the cause of socialization. The difficulties in the way of economic reconstruction were doubtless insuperable; but the fact remains that it has accomplished nothing, indeed attempted almost nothing, toward the rehabilitation of the country. It is clear to everyone that it is largely controlled by the bureaucracy, which has changed but little. The root of the whole trouble is that the men who are at the helm, whether in governmental or administrative posts, are the same who were responsible for the war. A few of the loftiest personages have been retired, but, on the whole, the old figures and the old methods are in the ascendency. A real revolution would have brought Maximilian Harden to the fore. He has had the courage to denounce the hypocrisy of a republic whose promoters have immediately appointed monarchists to the highest posts; who say that Ger-

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many was not defeated and threaten Bolshevism if the peace terms are not to their liking.

On the other hand, the parties of the Right have found ample cause to criticize the government's weakness and condemn its opportunism. It continued to exist merely because there was no one else to take its place. It was generally predicted that it would fall on the question of the peace treaty, whether it decided to accept the treaty or not. One man alone has thus far risen into a commanding prominence which forecasts for him the possibility of a career of more than a few short weeks. That is Herr Noske, minister of national defense. He is described as an imperialist Socialist, who supported the war throughout, expressing at times chauvinistic sentiments which would do credit to Von Tirpitz or Bernhardi. He is a believer in force, and has known how to use the volunteer military units, which were recruited ostensibly for the campaign against the Poles on the Eastern border, effectively against the Spartacists. It is believed that had he a free hand he would give short shrift to the Bolsheviki. There is talk of a dictatorship and Herr Noske is the man usually mentioned in this connection. This is, of course, still mere speculation but history has the habit of repeating itself and another child of the revolution may attempt to emulate the career of Napoleon.

The provisional Ebert government, in preparation for the work of the constituent national assembly, appointed a commission headed by Professor Hugo Preuss, professor of public law in the Berlin Handelshochschule and a former leader of the Progressive party (well-known to students of political science as the historian of municipal government), to frame a draft constitution to be submitted to that body. This was completed toward the end of January, and was accompanied by a remarkable memorandum. This document is essentially an argument for a federation of free states constructed on a new basis, under an elected president with a bicameral parliament.

Preuss says (for it is doubtless his work) that the new constitution must be based on democracy—on the existence of the German people as a political unit and not on the existence of states as such, whether in monarchical or "Free-State" form.

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The present states, he asserts, are purely accidental units, arising out of the fluctuations of dynastic policy and achievement. There is no real justification for the existing frontiers. The smallest states are mere appendages of Prussia, and must be grouped into units capable of independent life. This would not be applicable to Hamburg and Bremen, with their Hanseatic tradition. The critical problem is the future of Prussia, complicated as it is by historic memories and sentiments. But it is necessary to recognize that a Prussian republic of 40,000,000 inhabitants is a constitutional, political and economic impossibility inside a German republic of 70,000,000. Furthermore, the disappearance of Prussian hegemony is essential if Germany is to recover her international position. A strong Germany requires a united people; and particularism, which has ever been the bane of German politics, can only be overcome by a complete German unity. Other than territorial differences, such as that between agrarian and industrial interests, can likewise be harmonized only by a strong, centralized national authority. On general grounds it is desirable that Berlin be the capital, but that is impossible if Prussia remains intact. Berlin should be under the central government, not under Prussia.

There should be an end of the right of the member-states to diplomatic representation abroad. The republic should also alone be the unit of defense. The special rights (*Sonderrechte*) of the states should be abolished. An end should be put to the Prussian railway system, and all the railroads of the country centralized under national control. Other forms of communication and transport, including the postal and telegraph system, should be unified. The tremendous financial burdens, under the terrible pressure of which the German Republic begins its existence, make it impossible from the outset to withdraw from the sphere of national finance any appropriate source of revenue. The nation (*Reich*) should have first call in every case, if it is to exist at all. The states and also the cities and towns must adapt their finances and taxation to the framework of national finance, partly by opening up for themselves sources to which the national government lays no claim, and then by being permitted to

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add their own taxation to certain national taxes, within the limits determined by the national government. The solution of the problems of socialization, of land policy, of the relations of church and state should be along centralized lines. As regards religion and education there can be great elasticity, but the general principles should be common.

In accordance with these general principles the draft constitution provided for a federal republic consisting of fifteen states, Prussia being divided into seven or eight, and the smaller states combined into units of reasonable size. At the head of the republic there was proposed a president elected by direct vote of the whole people for a ten-year term. He should appoint a responsible parliamentary ministry, whose members, however, need not be members of the legislative body, but who must resign when they lose its confidence. The legislative body should consist of a popular house elected on the broadest suffrage and a states house which would express the federalist principle. The members of the states house would be elected by the unicameral state diets, which in turn would be elected by the same suffrage as the popular chamber of the national legislature. Irreconcilable differences between the two chambers, or between them and the President, would be decided by a referendum.

The writer of this article does not hesitate to say that this draft constitution, and particularly the accompanying memorandum, are the single evidence which the period under discussion has produced that anything like real statesmanship exists in Germany. It is a striking commentary on the unregenerate character of the political forces in control that the judicious advice of Professor Preuss has been entirely disregarded, and the draft constitution apparently never submitted to the assembly. Particularism in Germany has again proven too strong, and instead of this thorough-going reorganization, the old system is merely revamped.

The national assembly speedily adopted unanimously a provisional constitution which had been submitted to it by the government. Under this constitution, except for the important changes that the head of the state is elected by the national

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assembly and that the ministry is responsible to the legislative body (which was indeed nominally provided for in the old constitution), there is little change from the old system. No provision for elections is contained in the provisional constitution The *Bundesrath* is reëstablished in practically unaltered form and powers as the "States Committee;" Prussia remains predominant with nineteen votes in the "States Committee;" the *Sonderrechte* are preserved; and the administration is not centralized. The national assembly has meanwhile undertaken the framing of a definitive constitution but there is little likelihood that it will rise above the particularistic influences that appear to be stronger today than at any time since 1870.

Alongside the regularly constituted, albeit provisional, government, there has existed a second government, or set of governments, which have displayed in many respects more strength, vitality and initiative. This is the system of workmen's and soldiers' councils, or *Asrats* as they have come to be called from the initials (*Arbeiter und Soldaten Rat*). As a phase of the revolution, and coincident with the establishment of the provisional governments for the nation and the several states, self-constituted councils of workmen and soldiers seized control of the government in many of the principal cities, including Berlin. These bodies sprang up like mushrooms and quickly secured an authority which the provisional governments could not gainsay. They appear generally to have permitted the city officials, even the *Bürgermeisters*, to remain in office, confining themselves to a general supervision except for taking over the police function. The Berlin council, pending the establishment of a central executive council representing all the councils of the country, assumed to act as such. Eventually congresses of representatives from the several local councils were held and a central executive council set up. Gradually, too, the basis of their authority has been more clearly defined, though varying in different cities. In Berlin all workers, twenty years of age, whose earnings do not exceed 1000 marks, are eligible to elect, and to be elected, to the workmen's council; while in Hamburg workers are

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defined as including "owners, directors, managers," etc. as well as wage earners. Their party composition has also varied a great deal. The Berlin council in the earlier period consisted of seven Majority Socialists, seven Independent Socialists and two Democrats. The tendency has been, however, for them to become predominantly Independent and Spartacist. They are not to be held responsible for the Spartacist uprisings, though these have in many instances had for their purpose the strengthening of the councils. In large part they are of Majority Socialists.

At first there seems to have been a harmonious understanding between these councils and the governments. The central government recognized them as the bearers of the revolutionary will of the people, and as a board of control over the entire administration of their respective areas. Almost from the beginning, however, differences between the councils and the governments began to develop, which at times have issued in open civil war.

Neither the state nor national governments have generally thus far felt sufficiently strong openly to defy the councils or to undertake their suppression. The peculiar situation is indicated by the fact that the councils use the chambers of the diets for their congresses, and the governments cannot say them nay. At the same time that open clashes occur between the troops of the government and those of the councils, negotiations between them continue.

It is evident that the question whether they are to be recognized as a permanent branch of government cannot be much longer delayed. They are demanding with increasing insistence that the economic order shall be transformed into an unbureaucratic community of producers, including masters and men, and of consumers. A complete fusion of capital and labor is their object. As representing this economic order the council system would be developed into a coördinate branch of government. Based upon local district and regional councils, there would be erected a national economic council as a complement to the political legislative body.

The councils have conducted their campaign for complete recognition most cleverly. They have asserted their right to

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be considered the true successors of the old executive, have maintained their right to control of the army, have opposed the convening of the national assembly, and called a general congress of councils to meet in Berlin on the day the assembly convened at Weimar. They have utilized general strikes to force compromises from the regular governments. About the middle of March they succeeded in compelling the central government to accord them a certain recognition. Chancellor Scheidemann announced that it was the intention of the government to "anchor" the council plan deep and fast in the constitution, but as yet the exact form which this constitutional recognition will take has not appeared.

How events will shape themselves in the immediate future in Germany no one can tell. The general apathy and despondency of the people, which reveals itself quite as much in the extravagant and wasteful expenditures of the upper classes and in the marked decline in social morality as in the strikes and general disinclination to work on the part of the proletariat; the complete financial bankruptcy of the nation; the inevitable loss of the most important coal-producing areas; the destruction of overseas commerce; and the embittered hatred of all the world are circumstances which would seem to make the problem of political and economic reconstruction insoluble. He would be indeed a bold prophet who would hazard even a guess at the probable outcome.[2]

[2] Since writing this article the Scheidemann ministry resigned on June 20, as was anticipated, over the question of signing the treaty of peace. The premier and several other members were so fully committed to rejection that their fall was certain in the face of the national assembly's strong majority for signing. A new ministry has been appointed under the premiership of Herr Bauer, a Majority Socialist, who had been minister of labor in Prince Max's ministry, and had continued under the provisional Ebert government. This cabinet contains seven members of the Scheideman cabinet. It accepted the mandate of the national assembly to sign the treaty, but otherwise cannot be said to represent any new or different principles. Herr Noske remains minister of national defense and continues to be the strong man of the goverument.

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JEFFERSON AND THE LAW OF NATIONS

LOUIS MARTIN SEARS

The embargo upon commerce which Congress at the suggestion of President Jefferson decreed in 1807 was more than an experiment in practical politics. It was the test on a magnificent scale of a theory of international law long maturing in the President's mind, and the fitting contribution of a new nation to a body of doctrine which owed its revival, if not its inception, to the need of curbing the international anarchy which accompanied the rise of modern states. The law of nations was a new development. Less than two centuries had passed since Grotius put forth the pioneer work *De jure belli ac pacis* (1625). The interval between the publication of Grotius' book and the issuance of the embargo decree was, in fact, the classical period in international law. The labors of Leibnitz, Wolff, Vattel, and Bynkershoek built up a system popular, not only with doctrinaires and philosophers, but even with enlightened despots in their more subjective moments. By the close of the eighteenth century, the law of nations had acquired as much prestige as it could ever hope to secure without the support of its own guns and navies. It was the highest political expression of an age which believed in the perfectability of human relations through sheer intellect. And if its dicta sometimes failed to govern the actions of courts and cabinets, its infringement was not a matter of indifference. Nations broke treaties, to be sure, but they did not call them "scraps of paper."

International law since Grotius has in reality known two great eras and is now entering upon a third. The first culminated between 1758 and the French Revolution, when for an entire generation Vattel's *Le Droit des gens, ou principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains* enjoyed a vogue which has been accorded to but

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few of the world's books.[1] The Napoleonic Wars overthrew this older law of nations along with the nations it represented. It was amid the débris and ruins of international law that Jefferson inaugurated his embargo. A second stage in modern law marked the century between the Congress of Vienna and the 1907 meeting of the Hague Conference. This was essentially an age of disillusionment. The age of reason had succumbed to the unreason of much that is human, and visions of immediate perfection paled and faded before the Darwinian view of imperceptible evolution. International law then as the expression of a pragmatic and skeptical world contented itself with as efficient a system of balance of power as it could devise, and endeavored at two world gatherings to place a limit upon the military use of the tools which modern industrialism had created. In the tragedy just closing the international law of Gladstone, Bismarck, Nicholas II, and Bryan has been swept away as utterly as the older system of the "fathers."

And now in the Reconstruction, international law is seeking a more effective sanction. And the League of Nations, in so far as its police power is to prove a reality, finds its counterpart in the Roman Empire, where one law governed the world, and York and Byzantium were kin.

From this larger synthesis of the law of nations, it is of interest to examine more particularly Jefferson's own acquaintance with the authorities upon the subject,[2] and his conception of his own relation to the law. Jefferson had all his life been a student of political theory, and the authors to whom he refers from time to

[1] For an interesting study of Vattel, see Charles G. Fenwick, "The Authority of Vattel" in *The American Political Science Review*, Vol. VII (1913), pp. 395–410. An article by Thomas Willing Balch in the *Pennsylvania Law Review* for 1916 also treats of Jefferson's interest in the law of nations.

[2] Among others he cites: *The Writings of James Madison* (Hunt ed.), Vol. II, p. 43, Madison to Thomas Jefferson, March 16, 1784, "The tracts of Bynkershoek, which you mention;" *The Works of Thomas Jefferson* (Federal ed., 1904–05), Vol. IV, p. 29, Puffendorf; Vol. IV, p. 248, Bynkershoek; Vol. VI, p. 63, Adam Smith; also Montesquieu, Locke, Burke, De Lolme, Hume, Molloy, Beccaria, and Vattel.

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time and a perusal of whom he recommends to his friends constitute a gallery of the political scientists of his period. The underlying concept of eighteenth century political thought was the theory of compact; and, like most of his contemporaries, Jefferson accepted the contract theory as it had developed in England through Hooker and Milton in theology, Hobbes and Locke in politics;[3] and as it had been popularized in France through Montesquieu and Rousseau. His own "Declaration of Independence" embodied the finest statement in English of the theory.

Up to 1776, Jefferson had been thinking of the theory in a somewhat limited aspect as an explanation for the origin of individual societies and governments. But the exigencies of practical administration which faced him as secretary of state and later as chief executive called his attention to a phase of the general theory not frequently emphasized. The customary explanation of compact presupposed a state of nature out of which man emerged into organized society by means of a formal and specific agreement.[4] On all points not covered by this agreement, he was still regarded as in the original state of nature. And the significance of this for the law of nations was that the state of nature was one of peace.[5] No Nietzschean school of thought had as yet arisen to glorify war as the natural state of man. To eighteenth century thinkers, war was the abnormal and the unnatural. And the state of nature which governed both individuals and nations, except as modified by special laws and treaties,

[3] For an epitome of the place of the theory of contract in American thought, see L. M. Sears, "The Puritan and his Anglican Allegiance" in *Bibliotheca Sacra* for Oct., 1917.

[4] M. de Vattel (Carnegie Institution, 1916), Introduction by A. de Lapradelle, p. xviii: "Dans l'école du droit de la nature et des gens, à laquelle appartient Vattel, le contrat joue un grand rôle. De même qu'il est à la base de l'Etat, dans le droit public interne, sous le nom de pacte social, il est encore à la base du droit international public, sous le nom de traité. Par le pacte, l'Etat se forme. Par le traité, il s'assure les droits nécessaires à son développement."

[5] See J. S. Reeves, "The influence of the Law of Nature upon International Law in the United States," etc., in *American Journal of International Law*, Vol. III (1909), p. 559. See also *The Works of Thomas Jefferson*, Vol. VII, p. 400.

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was a state of peace. Vattel furnished the text;[6] Washington and his advisers, the sermon. The neutrality which the United States pursued in 1793 was a definite advance in international law, based upon the fundamental pacifism of the state of nature idea included in the theory of compact.[7]

Neutrality was, in fact, dictated by plain necessity, but Jefferson found authority for it among the lawyers, and it was pleasant to indulge in what Genet termed the "aphorisms" of Vattel.[8] This same neutrality continued under Adams, in spite of the near approach to war in 1798, and remained the fixed policy of Jefferson's own term. It bore a golden harvest in the carrying trade of a warring world, for until the decrees and orders of the chief contestants closed the seas to our shipping, neutrality paid financially as well as morally. But the increasing rigor of the belligerents after 1805 forced the issue anew, and the decision to maintain neutrality rested, it must be confessed, more upon the practical impossibility of attacking both offenders than upon any theory that our own state of nature was peaceful. Most of Jefferson's allusions to Vattel and other authorities are to be found in the correspondence of 1793. Another ten years of conflict taught the futility of appeals to textbooks against the might which Napoleon and Canning both mistook for right. By nature a theorist, inexorable destiny made of

[6] M. de Vattel (Carnegie Institution, 1916), Introduction by A. de Lapradelle, p. xxiv: "Vattel, le premier, déclare que l'impartialité n'est pas obtenue par l'égalité des secours, mais par l'absence de secours. 'Ne point donner de secours, quand on n'y est pas obligé; ne fournir librement ni troupes, ni armes, ni munitions, ni rien de ce qui sert directement à la guerre . . . ne point donner de secours et non pas en donner également:' telle est sa formule," etc. See also *ibid.*, p. xxxvi.

[7] See J. J. Burlamaqui, *The Principles of Natural Law* (5th ed., Dublin, 1791), p. 164: ". . . let us observe that the natural state of nations, in respect to each other, is that of society and peace." M. de Vattel (Carnegie Institution), Introduction by A. de Lapradelle, p. xxiii: "Machiavel donnait aux princes le conseil d'épouser les querelles les uns des autres, en vue de partager, avec le vainqueur, les dépouilles du vaincu. Diplomate de l'école de Jean-Jacques, Vattel, au contraire, les engage à rester spectateurs. Pour la première fois le nom de *neutralité* pénètre dans un traité de droit des gens."

[8] *The Works of Thomas Jefferson*, Vol. VII, p. 485, Jefferson to Gouverneur Morris, August 16, 1793.

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Jefferson a realist. Yet devotion to ideals is, after all, his salient characteristic. And his utterances upon the law of nations and its framers possess a unique interest for a world which is once more called upon to formulate not only its practice, but its theory as well. If the following pages seem to concern many matters besides the embargo, the latter may still be kept in mind as the practical outcome of much theorizing.

Frequently his allusions are only incidental. For example, the right of an assembly to determine its own quorum reminds him of Puffendorf.[9] Again he says of Bynkershoek's works: "There are about a fourth part of them which you would like to have. They are the following tracts. *Questiones juris publici—de lege Rhodeâ —de dominio maris—du Juge conopetent des Ambassadeurs,* for this last if not the rest has been translated into French with notes by Barbeyrae."[10] More important because of their subject are his observations on *The Wealth of Nations.* "In political economy," he writes, "I think Smith's wealth of nations the best book extant, in the science of government Montesquieu's spirit of laws is generally recommended. It contains indeed a great number of political truths; but also an equal number of heresies: so that the reader must be constantly on his guard. . . . . Locke's little book on government is perfect as far as it goes. Descending from theory to practice there is no better book than the Federalist. Burgh's Political disquisitions are good also, especially after reading De Lolme. Several of Hume's political essays are good. There are some excellent books of Theory written by Turgot & the economists of France. For parliamentary knowledge, the Lex parliamentaria is the best book."[11]

Several of the above named works were regarded by Jefferson as indispensable to the training of a lawyer. And a chart of readings recommended to his young cousin for daily study between the hours of twelve and two includes Molloy, *De jure maritimo;* Locke, *On Government;* Montesquieu's *Spirit of Law;* Smith's

[9] *Ibid.*, Vol. IV, p. 29.
[10] *Ibid.*, p. 248.
[11] *Ibid.*, Vol. VI, p. 63, Jefferson to Thomas Mann Randolph, May 30, 1790.

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Wealth of Nations; Beccaria; Kaim's *Moral Essays* and Vattel's *Law of Nations.*[12]

But the law of nations meant to Jefferson far more than an elegant supplement to a legal education. It was a reality in diplomacy ready to function upon any issue. In 1792, that issue was Spain. During the Revolution, Spain had encroached upon Georgia. But the peace treaty failed to recognize her gains and she was obligated to return them to Georgia. So far as the treaty applied, this might be to Georgia direct, or on the theory that British sovereignty still held when the attacks were made, restitution might be made to Britain first for transfer to the United States. In support of direct dealings between Spain and the United States, Jefferson enlisted the doctrine of natural right, we being the real proprietors of the places seized, and for natural right he appealed to Vattel.[13] The case was simple. If Britain was the real proprietor, it was certain that she had never ceded her rights to Spain. On the contrary, her relinquishment had been to the United States. If America was the original and lawful proprietor, the situation was absurd, for America and Spain were allies at the very time the seizures occurred. Common sense alone would uphold the American contention, but Jefferson called in a battery of legal support. "See," he urges, "on this subject, Grotius, l. 3. c. 6, §26. Puffendorf, l. 8, c. 17, §23. Vattel, l. 3, §197, 198."[14]

The law of nations was equally serviceable for American rights to navigation on the Mississippi. "What sentiment," demands Jefferson, "is written in deeper characters than that the ocean is free to all men, and their rivers to all their inhabitants?"[15] Obstructions to river navigation had always been acts of force, and if recognized were matters of treaty and not of natural right. Even exclusive control of the lower waters of a river gave its owners no dispensation from the general law. And in the case

[12] *Ibid.*, p. 72, Jefferson to John Garland Jefferson, June 11, 1790. For a comment on Beccaria, see *ibid.*, Vol. I, p. 71.

[13] *American State Papers*, Foreign Relations, Vol. I, p. 252, March 18, 1792. See Vattel, l. 3, p. 122.

[14] *American State Papers*, Foreign Relations, Vol. I, p. 252, March 18, 1792.

[15] *Ibid.*, p. 253.

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in question, Spain held on both sides of the Mississippi so narrow a zone "that it may in fact be considered as a strait of the sea."[16] On this point as in the case of the Georgia claims, the authorities are duly cited: "See Grot. l. 2. c. 2 §11, 12, 13, c. 3. §7, 8, 12. Puffendorf, l. 3. c. 3. §3, 4, 5, 6. Wolff's. Inst. §310, 311, 312. Vattel, l. 1. §292, l. 2. §123 to 139."[17]

The right of navigation being granted, that of mooring vessels to the shore and even of landing if necessary was the inevitable corollary. And lest there be any doubt of this simple truth, Jefferson calls to witness "Grot. l. 2. c. 2. §15. Puffend. l. 3. c. 3. §8. Vattel, l. 2. §129."[18] If these were not convincing, there was the further arsenal of Roman law. The Romans placed river navigation on the basis of natural right—"(flumina publica sunt, hoc est populi Romani, Inst. 2. t. 1. §2)"[19]—and derived an incidental right to the use of the shores "(Ibid., §1, 3, 4, 5)."[20] This shore privilege was automatically extended in emergency to the beaching of a damaged ship when simply mooring it would prove unsafe. Here Jefferson quotes at length from "Inst. l. 2. t. 1. §4."[21] It thus appears that all the lawyers, both ancient and modern, upheld American rights upon the Mississippi. Is it surprising that the case was finally won?

Meanwhile even more urgent difficulties with Great Britain pressed for solution. The Peace of Paris was violated by both parties. Great Britain still held the western forts;[22] America still owed the royalist debts. In supporting the American position, Jefferson took for his major premise the validity of the *status quo* as defined by the time of the peace signing.[23] He next pointed out that the treaty became binding only when it

[16] *Ibid.*, p. 254.
[17] *Ibid.*, p. 254.
[18] *Ibid.*, p. 254.
[19] *Ibid.*, p. 254.
[20] *Ibid.*, p. 254.
[21] *Ibid.*, p. 254, March 22, 1792.
[22] For a recommendation of commercial retaliation on this account, see *The Works of Thomas Jefferson*, Vol. I, p. 210.
[23] *American State Papers*, Foreign Relations, Vol. I, p. 201, May 29, 1792, citing "Vattel, l.4. s. 21," and "Wolf, 1222."

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was published to the country at large.[24] At the moment when the treaty was so proclaimed, much British property was by the fortune of war in American hands. The claim to permanent ownership of these confiscations would hold in law, save for the custom grown quite general in Europe of returning to individuals their private property.[25] America would have been glad to observe this courtesy had the war been of a normal character, but such was far from the case. Our resources were too exhausted to permit of mere amenities. Moreover, Great Britain had placed us as rebels beyond the pale of international law. "She would not admit our title even to the *strict rights* of ordinary war; she cannot then claim its *liberalities;* yet the confiscations of property were by no means universal, and that of debts still less so."[26]

Even granting the righteousness of certain British claims, reason and law were one in cautioning delay in their payment.[27] In Jefferson's own formula: "Time and consideration are favorable to the right cause—precipitation to the wrong one."[28] And as for interest, that was preposterous, even according to British precedents.[29] Where both debtor and creditor lost, the court would not double the loss of one to save that of the other. In both natural and municipal law, in questions "de damno evitando melior est conditio possidentis."[30] All the more so where the creditor inflicted the damage.[31]

Turning to British delinquencies, Jefferson quotes the treaty pledge to retire "*with all convenient speed,*"[32] and conjures up

[24] *American State Papers*, Foreign Relations, Vol. I, p. 201, quoting "Vattel, l. 4. s. 24" and s. 25; "Wolf, s. 1229."

[25] *American State Papers*, Foreign Relations, Vol. I, pp. 201–202, May 29, 1792, quotes Bynkershoek "Quest. Jur. Pub. l. 1. c. 7."

[26] *American State Papers*, Foreign Relations, Vol. I, p. 202, May 29, 1792.

[27] *Ibid.*, pp. 208–209, citing "Vattel, l. 4. s. 51" and "Bynkershoek, l. 2. c. 10." See also Bynkershoek, l. 1. c. 7.

[28] *American State Papers*, Foreign Relations, Vol. I, p. 211, Section 45.

[29] *Ibid.*, p. 213. He quotes here Lord Mansfield, "Dougl. 753," and 376.

[30] *American State Papers*, Foreign Relations, Vol. I, p. 213. See also *The Works of Thomas Jefferson*, Vol. VII, pp. 84–85.

[31] See in this connection *American State Papers*, Foreign Relations, Vol. I, p. 214, citing "Wolf, s. 229" and s. 1224, and "Grotius, l. 3. c. 20, s. 22."

[32] *American State Papers*, Foreign Relations, Vol. I, p. 206, May 29, 1792.

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Vattel to show that this really meant "as soon as possible."[33] In his reply, the British minister disclaimed any authority to surrender the posts, and the conference was barren as respects its chief objective.

Nevertheless one truly constructive development grew out of the diplomatic interchange as to debts and forts. Hammond expressed the regret that Great Britain and the United States had no buffer state between. He feared trouble from rival army posts on either side the Canadian border. Thereupon Jefferson suggested that both sides restrict their forces to a minimum to be agreed upon. And the friction of wits between Jefferson and Hammond then generated a thought spark of more value to humanity than many a treaty of peace. Seizing Jefferson's idea of a limitation of armaments, Hammond went the further step of urging the abolition of all military posts in favor of trading stations. Jefferson hailed the suggestion. "I told him," he records, "that the idea of having no military post on either side was new to me, that it had never been mentioned among the members of the Executive. That therefore I could only speak for myself & say that, *primâ facie*, it accorded well with two favorite ideas of mine of leaving commerce free, & never keeping an unnecessary souldier, but when he spoke of having no military post on either side there might be difficulty in fixing the distance of the nearest posts."[34] A great war was to intervene before the unfortified Canadian boundary became a fact. But Jefferson and Hammond both deserve credit for the germ of a real pacifism and of international good-neighborliness. Less heeded than the grand climaxes in his life, this conversation of Jefferson with Hammond is memorable for its genesis of a great idea. It marked him as a trail blazer in international law.

While Washington and his cabinet were struggling with these American issues, the war cloud in Europe was threatening to engulf all the neutrals.[35] The death grapple between England

[33] *Ibid.*, p. 206, citing "Vattel, l. 4. c. 26."

[34] *The Works of Thomas Jefferson*, Vol. I, p. 227, Anas Papers, 1792.

[35] It had really been looming since 1787, even before the French Revolution began, and Jefferson had then predicted our eventual neutrality (see *The Works of Thomas Jefferson*, Vol. I, p. 114) and attempted to demonstrate its advantages to both belligerents.

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and France which lasted with one brief intermission from 1793 to 1815 raised from the first grave questions of international law and the rights of neutrals, and called from our own state department important declarations of principle. When Great Britain first threatened her paper blockade, Jefferson assured Pinckney, the American minister at London, that such an infringement of neutral rights was past belief.[36] The law of nations was too ingrained in civilized practice, as witness the recent American treaty with Prussia which went even so far as to deny the existence of contraband "for, in truth, in the present improved State of the arts when every country has such ample means of procuring arms within and without itself, the regulations of contraband answer no other end than to draw other nations into the war. However, as nations have not given sanction to this improvement, we claim it, at present, with Prussia alone."[37]

Such a view of contraband was not likely to countenance the British objection to shipments of arms for French account, and Jefferson vigorously asserted the right of our citizens to a traffic in munitions, a right in which they were amply sustained by the law of nations, which simply designated munitions as contraband if the enemy could capture them.[38] What was true of cargoes was equally true of their vessels. The law of nations insured their right to pass unharmed "and no one has a right to ask where a vessel was built, but where is she owned?"[39] To assert this right was all the more essential, as our increasing commerce demanded additional cargo space, and shipping once purchased enjoyed the protection in some cases of specific treaties; in others, of the general law of nations.[40]

Questions of navigation, contraband, blockade and seizure were of course fundamental. Upon their solution depended the ability of America to remain outside the general conflagration.

[36] *The Works of Thomas Jefferson*, Vol. VII, p. 314, May 7, 1793.

[37] *Ibid.*, pp. 314–315, May 7, 1793.

[38] *Ibid.*, p. 326, May 15, 1793. See also *ibid.*, pp. 84–85; also *American State Papers*, Foreign Relations, Vol. I, pp. 147, and 188, November 30, 1793.

[39] *The Works of Thomas Jefferson*, Vol. VII, pp. 386–387, Jefferson to Gouverneur Morris, our Minister at Paris, June 13, 1793.

[40] *Ibid.*, Vol. VII, p. 416, Jefferson to James Monroe, June 28, 1793.

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But even more annoying, for the moment, were the demands of the French agents on American soil. These parvenus in diplomacy outraged all the canons of the old régime by their insolent demands, to yield which would be suicidal, to refuse, churlish. The balance between gratitude and self-interest was, indeed, hard to preserve, and the law of nations was in demand as a prop for a neutrality more sensible than romantic.

The most offensive of these French representatives, the Girondist Genet, although he violated all the laws of hospitality by his conduct at Charleston and Philadelphia, contrived to place the American government on the defensive. Jefferson explained to him our point of view with an almost loving patience, finding ample vindication for neutrality in the pages of Vattel and Wolff. He quoted at length from Vattel:[41] " 'Tant qu'un peuple neutre veut jouir surement de cet etat, il doit montrer en toutes choses une exacte impartialité entre ceux qui se font la guerre. Car s'il favorise l'un au prejudice de l'autre, il ne pourra pas se plaindre, quand celui-ci le traitera comme adherent et associé de son ennemi. Sa neutralité seroit une neutralité frauduleuse, dont personne ne veut etre la dupe. Voyons donc en quoi consiste cette impartialité qu'un peuple neutre doit garder.

" 'Elle se rapporte uniquement à la guerre, et comprend deux choses. 1, Ne point donner de secours quand on n'y est pas obligé; ne fournir librement ni troupes ni armes, ni munitions, ni rien de ce qui sert directement à la guerre. Je dis *ne point donner de secours* et non pas *en donner egalement;* car il seroit absurde qu'un etat secourut en même tems deux ennemis. Et puis il seroit impossible de le faire avec egalité, les mêmes choses, le même nombre de troupes, la même quantité d'armes de munitions, &c. fournies en des circonstances differentes; ne forment plus de secours equivalens, &c.'

"If the neutral power may not, consistent with its neutrality, furnish men to either party, for their aid in war, as little can either enrol them in the neutral territory, by the law of nations. Wolf, s. 1174 says, 'Puisque le droit de lever des soldats est un

[41] *American State Papers,* Foreign Relations, Vol. I, pp. 154–155, Jefferson to Genet, June 17, 1793, quoting "Vattel, l. 3. s. 104."

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droit de majesté qui ne peut etre violé par une nation étrangere, il n'est pas permis de lever des soldats sur le territoire d'autrui sans le consentement du maitre du territoire.' And Vattel, before cited, l. 3, s. 15, 'Le droit de lever des soldats appartenant uniquement à la nation ou au souverain, personne ne peut en enroller en pays étranger sans la permission du souverain. Ceux qui entreprenent d'engager des soldats en pays étranger sans la permission du souverain et en general quiconque debauche les sujets d'autrui, viole un des droits les plus sacrés du prince et de la nation. C'est le crime qu'on appele *plaigiat* ou vol d'homme. Il n'est aucun etat policé qui ne le punise très sévérement.'

" . . . . The testimony of these and other writers on the law and usage of nations, with your own just reflections on them, will satisfy you that the United States, in prohibiting all the belligerent Powers from equipping, arming, and manning vessels of war in their ports, have exercised a right and a duty, with justice and with great moderation."

Jefferson continued this course on the law of nations by recalling to his unwilling pupil, Genet, the principle that friendly goods in the vessel of an enemy are free, while enemy goods in the vessel of a friend are prize. Exceptions to this rule did occur, it was true, and it was the effort of the United States to convert the exception into the rule and establish the principle that free ships make free goods.[42] But this was in each case a matter for special treaty, and where such a treaty had not been concluded, the general law of nations still prevailed. Unhappily, we had no such treaty with England, Spain, Portugal and Austria. And if, for the time being, this might seem to operate against France, by exposing her goods if found in our ships to seizure by the said England, Spain, Portugal and Austria, there was at any rate the compensation of gaining our goods whenever they were found in the vessels of these same powers, the enemies of France. America herself, as Jefferson explained, was the real loser by the principle she was seeking to make popular, and she

[42] See *The Works of Thomas Jefferson*, Vol. I, p. 96, for an early mention of this principle.

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would continue to lose as long as its acceptance was only partial. The advantages would appear only when the principle that free ships make free goods should become the universal law of nations. Then, indeed, our position as a friendly neutral would vastly improve through exemption from search. "To this condition we are endeavoring to advance, but as it depends on the will of other nations, as well as our own, we can only obtain it when they shall be ready to concur."[43]

The neutrality which Jefferson was so zealously explaining to Genet involved an equal care in upholding our rights against Great Britain.[44] Jefferson particularly objected to the British naval orders of June 8, 1793, designed to cut off American grain from enemy countries. He insisted that grain was not contraband, and that for America to submit would be an unneutral act, tantamount to war upon France. "[Great Britain] may, indeed, feel the desire of starving an enemy nation; but she can have no right of doing it at our loss, nor of making us the instrument of it."[45] He further made it clear to Hammond that we were within our rights in according to France certain special courtesies such as admission of her prizes and privateers into our ports, and even of her regular line-of-battle ships in face of emergencies such as storms, pirates, and enemies,[46] though for ordinary cruising on our coast beyond the three mile[47] limit, England possessed equal rights with France and all other nations.[48]

[43] *American State Papers*, Foreign Relations, Vol. I, pp. 166–167, Jefferson to Genet, July 24, 1793. For the same idea, see *ibid.*, p. 170, Jefferson to Gouverneur Morris, August 16, 1793.

[44] *Ibid.*, p. 170, on neutrality. See also *The Works of Thomas Jefferson*, Vol. VII, pp. 302, 309, 387, 415.

[45] *Ibid.*, Vol. VIII, p. 28, Jefferson to Thomas Pinckney, September 7, 1793. Also *American State Papers*, Foreign Relations, Vol. I, p. 239. Also H. E. Egerton, *British Foreign Policy in Europe to the End of the 19th Century*, pp. 374–375. Lord Grenville on his side relied on Vattel to prove England's right to this corn seizure, *American State Papers*, Foreign Relations, Vol. I, p. 241, July 5, 1793.

[46] *Ibid.*, p. 176, September 9, 1793. Also *The Works of Thomas Jefferson*, Vol. I, pp. 271, 273, 289–290.

[47] *American State Papers*, Foreign Relations, Vol. I, p. 183, November 8, 1793.

[48] *Ibid.*, p. 176.

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Jefferson's own bias was frankly French,[49] throughout the cabinet crises which Genet precipitated. So far as American interest would permit, he remained true to his Gallophile sentiments. And even when the irritation over Genet was at its height, he did not lose sight of those French interests which the conduct of a scatter-brained minister had so gravely jeopardized. To steer a firm yet just course was not easy. To deal with the Reds of '93 was as embarrassing as might be. Only a statesman engaged in treaty making with the Bolsheviki can appreciate the difficulties involved. Aside from tolerating the vagaries of a one-time friend, America might not ignore the effect upon home politics of crowning Genet as a martyr. If for this reason only, the state department was fortunate to be under the guidance of a devotee of international law, and a friend of France.

Jefferson left the cabinet on January 1, 1794, while the final disposition of Genet was still pending. But he had already accomplished much. He had been firm but not uncompromising over the surrender of the posts and British relations on the border. His Mississippi policy was shaped by the twofold necessity of maintaining peace with Spain without casting off the west from the older states. And his friendship for France had withstood the vexations of an inexperienced and irresponsible government. Is it too much to attribute this steadfastness to the influence of a general body of principles incorporated in the law of nations? Certainly Jefferson was conscious of their authority.

An underlying concept of a genuine international law, possessing a moral if not a physical sanction, thus appears as part of Jefferson's thought. He was, however, too good a lawyer and too experienced a statesman to regard this as a completed revelation from on high, and he himself made valuable contributions to both theory and practice. One of these was his insistence upon the principle that free ships make free goods. To this, reference has already been made.[50] A second, and this is of especial interest today, was no less than a plea for a league of

[49] *The Works of Thomas Jefferson*, Vol. I, pp. 259, 271–273, 326–328, etc.

[50] But see also *ibid.*, p. 390.

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nations. He urged it for the first time in 1786 while he was our minister at Paris; and although the idea was not acted upon in his lifetime, he never wholly abandoned it. The common objective of the league as proposed by Jefferson was joint action against the Barbary Pirates.[51] All the powers with a stake in the Mediterranean commerce were asked to place a quota of ships under the direction of an international body sitting at Paris. Coöperative effort under unified command would make short shrift of the pirates. But the project fell through; partly because it was in advance of the time, partly because the government of the Confederation was not strong enough to bind America herself to a share in the compact.

A vital element of Jefferson's scheme of international law was his work on behalf of neutrals. His ideas concerning freedom of the seas and contraband succumbed before a great European war. The only rights of neutrals were those maintained by force. But force might be active or passive. The former was war, and a neutral at war ceased to be neutral. But there is a power in passive resistance which many tyrants have learned to respect. And Jefferson determined to turn that power to account in shaping American foreign policy in the difficult years from 1805 to 1809. His solution was the embargo.

The embargo of 1807 was not a sudden expedient. Jefferson had worked it out in detail more than thirty years before. The Resolution of Albemarle County put forth in July, 1774, was the work of his pen.[52] It declared for a very real embargo, proposing "an immediate stop to all imports from *Great Britain*,

[51] *Ibid.*, 1786, pp. 100–103. See also *American State Papers*, Foreign Relations, Vol. I, pp. 104–105, report of Thomas Jefferson on the Mediterranean Trade, January 3, 1791. Also *ibid.*, p. 134, March 7, 1792. Also *The Works of Thomas Jefferson*, Vol. IX, p. 265, June 11, 1801.

[52] The Resolution of Albemarle County should be remembered with the Mecklenburg Declaration of Independence as one of a series of economic and political protests developing all along the western frontier from Pennsylvania to the Carolinas. Taken together these indicate a sectional self-consciousness which marked the west as united not only as against the Mother Country, but as against tide-water counties and the older east. Shut off from a European market, the west might contemplate with more serenity than commercial centers on the coast the workings of an embargo.

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(cotton, osnabrigs, striped duffil, medicines, gun-powder, lead, books and printed papers, the necessary tools and implements for the handicraft arts and manufactures excepted, for a limited term) and to all exports thereto, after the first day of *October*, which shall be in the year of our Lord, 1775; and immediately to discontinue all commercial intercourse with every part of the *British* Empire which shall not in like manner break off their commerce with *Great Britain*."[53]

The report on commerce prepared while Jefferson was secretary of state is less definite as to an embargo, but does advocate reprisal against European powers guilty of discriminating against our trade. The suggested remedy was a system of "Counter prohibitions, duties, and regulations."[54]

In 1794, after Jefferson had withdrawn from the cabinet, he again pronounced in favor of commercial retaliation as an efficient substitute for war. The misfortune of war was that it injured the punisher quite as much as the punished. "I love, therefore, mr. Clarke's proposition of cutting off all communication with the nation which has conducted itself so atrociously."[55] The objection that this might bring on war anyway, he countered by saying that if it came, we should meet it; if it did not come, the experiment would have paid. A certain reasonableness would at least mark its attempt, inasmuch as the best hope of obtaining justice from the British government lay in bringing pressure upon it from the British people and "this can never be excited but by distressing their commerce."[56]

As vice-president, Jefferson was more the critic than the statesman. He clung to the view that war was useless, particularly that which so nearly came in 1798, and although his references to commerce are not especially numerous, he restated his belief in commerce as the most efficient instrument for compelling justice. In this, his attitude was that of "I told you so." Thus he declares: "If the commercial regulations had been adopted

[53] *The Works of Thomas Jefferson*, Vol.II, pp. 43–44.

[54] *The Writings of George Washington* (Ford ed.), Vol. XII, p. 414, note.

[55] *The Works of Thomas Jefferson*, Vol. VIII, pp. 147–148, Jefferson to Tenche Coxe, May 1, 1794.

[56] *Ibid.*, p. 150, Jefferson to George Washington, May 14, 1794.

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which our legislature were at one time proposing, we should at this moment have been standing on such an eminence of safety & respect as ages can never recover. But having wandered from that, our object should now be to get back, with as little loss as possible, & when peace shall be restored to the world, endeavor so to form our *commercial* regulations as that justice from other nations shall be their mechanical result."[57]

He predicted that as soon as Great Britain and France should have adjusted their difficulties, they would both combine to exclude America from the ocean "by such peaceable means as are in their power."[58] And in moments of dejection, he seems to have thought it useless to resist. "What a glorious exchange would it be could we persuade our navigating fellow citizens to embark their capital in the internal commerce of our country, exclude foreigners from that & let them take the carrying trade in exchange: abolish the diplomatic establishments & never suffer an armed vessel of any nation to enter our ports."[59] But this need not be taken seriously. It is a leap into the Utopia which Jefferson in his calmer moods seeks to attain by more practicable means.

As President, in his first months of office, Jefferson defined the policy which he adhered to for eight years. He insisted that freedom of the seas must be restored, but opposed taking up arms for the purpose.[60] He reiterated his definition of contraband as everything or nothing, and extended it to commerce. Either all commerce with belligerents was lawful or none was.[61] Again, neutrals must be maintained in their rights. Yet we were in no condition for a war on their behalf,[62] and "those peaceable coercions which are in the power of every nation if undertaken in concert & in time of peace, are more likely to produce

[57] *Ibid.*, p. 293, Jefferson to Thomas Pinckney, May 29, 1797.

[58] *Ibid.*, p. 374, Jefferson to James Madison, February 22, 1798.

[59] *Ibid.*, Vol. IX, pp 65–66, Jefferson to Edmund Pendleton, April 22, 1799. For similar pessimism, see *ibid.*, Vol. VIII, pp. 286–287, May 13, 1797; also *ibid.*, Vol. IX, p. 95, January 18, 1800.

[60] *Ibid.*, p. 219, Jefferson to Dr. George Logan, March 21, 1801.

[61] *Ibid.*, p. 299, Jefferson to Robert R. Livingston, September 9, 1801.

[62] *Ibid.*, pp. 300–301.

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the desired effect."[63] Already in these early utterances one might perceive a reminiscence of the league of nations idea of 1786, a recognition that international law actually counted little in times of stress, and a forecast of that embargo which Jefferson was eventually to put into operation.

On the general subject of commerce, he continued to uphold the principle that free ships make free goods,[64] though he recognized that it would never count for much until Great Britain yielded her assent. And this she would never volunteer, nor could she be forced to it.[65]

Notwithstanding the incorrigibility of England in her abuse of sea power, Jefferson was nevertheless too far-seeing to wish her destruction. Great Britain had herself to thank for the world's indifference to her fate.[66] But it would be a mistake to wish either Britain or France eliminated from the balance of power.[67] And now and then one might even find points to emulate in British practice, as for example that of conveying prizes to the nearest neutral port, a procedure "so much for the interest of all weak nations that we ought to strengthen it by our example."[68]

Other interpolations in the law of nations were less to be desired, and Jefferson in his Fifth Annual Message condemned them as "founded neither in justice, nor the usage or acknowledgement of nations."[69] He never lost sight of America's interest in the law of nations and remained convinced that commerce was our best weapon for its defense, a weapon whose virtues should not be forfeited by acts of belligerency, whose chief usefulness was, in fact, "to encourage others to declare & guarantee

[63] *Ibid.*, p. 300.

[64] See John Taylor, *Curtius, A Defence of the Measures of the Administration of Thomas Jefferson*, 1804, pp. 111–118.

[65] *The Works of Thomas Jefferson*, Vol. X, p. 27, Jefferson to James Madison, Secretary of State, July 31, 1803.

[66] *Ibid.*, p. 67, Jefferson to James Monroe, January 8, 1804, and p. 77, Jefferson to James Madison, April 23, 1804.

[67] *Ibid.*, p. 67. He preferred England to France, though, after all, *ibid.*, p. 263-264, May 4, 1806.

[68] *Ibid.*, p. 118, Jefferson to James Madison, November 18, 1804.

[69] *Ibid.*, p. 188, December 3, 1805.

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neutral rights, by excluding all intercourse with any nation which infringes them."[70]

Jefferson thought he beheld a kindred spirit in the Emperor Alexander, and a letter on the subject of neutral rights addressed in 1806 by the chief of Democrats to the Tsar of all the Russias is of great interest. Jefferson entreats Alexander to throw all the weight of his influence in favor of "a correct definition of the rights of neutrals on the high seas," and suggests that excluding offenders against neutral rights from all commerce with other nations would provide an appropriate sanction, efficient, and at the same time preferable to war.[71]

The possibility of peace which had prompted this letter to Alexander did not materialize. Instead the war entered upon a deadlier phase, and the British blockade of Napoleon intensified the demand for ships, and stimulated the impressment of American sailors to man them. Impressment as a crying abuse complicated the already numerous infractions of international law which America must endure or prevent.[72] Negotiations with Great Britain had been proceeding for some time with slight result, and in March, 1807, Jefferson warned Monroe, who was in London with Pinckney, that no treaty with Great Britain which failed to take cognizance of the impressment question could possibly be ratified.[73] On the other hand he had slight faith that an agreement would be reached. And in the event of failure there was the old weapon of embargo, forged in 1774 and never fully tested.[74]

The embargo, nevertheless, narrowly missed being tested at all, for the affair of the Chesapeake in the summer of 1807 nearly precipitated the war which the embargo was planned to avoid.[75]

[70] *Ibid.*, pp. 247–248, Jefferson to Thomas Paine, March 25, 1806.

[71] *Ibid.*, p. 250, Jefferson to Alexander First, April 19, 1806.

[72] *Ibid.*, Vol. I, pp. 406–407, February 2, 1807. For an earlier statement on impressments, see *American State Papers*, Foreign Relations, Vol. I, p. 131, February 7, 1792.

[73] *The Works of Thomas Jefferson*, Vol. X, p. 375, Jefferson to James Monroe, March 21, 1807.

[74] *Ibid.*, p. 381, Jefferson to James Bowdoin, April 2, 1807.

[75] *Ibid.*, Vol. I, pp. 410–419.

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Sentiment in America ran very high over the insult of halting and searching our warship, and Jefferson himself shared the enthusiasm of the hour.[76] Cooler counsels prevailed, however,[77] and the worst violation of international law to which America had submitted since the ratification of the Constitution passed off with a tardy apology from Great Britain. During the excitement our shipping had been recalled, and this circumstance[78] rendered the embargo easier of enforcement when it was finally decided upon in December, 1807.

To generalize concerning Jefferson and international law, his position is excellent. Acquainted with the leading thought and thinkers of the eighteenth century, he based his early concept of international law on the theory of compact and the recognition of a state of nature wherein man was primarily in a condition of peace. These pacific theories remained with him in active politics, and he early (1774) declared for an embargo, to which he adhered in principle as a substitute for war until opportunity arose to put it to the test.

In his busy years in the state department, he witnessed the initial stages of a world conflict which spelled the negation and downfall of the international law of the eighteenth century. He himself appealed to the authorities in this older law, and found in them a support for the neutrality which Washington pursued in 1793 and later. But this contribution of Grotius, Wolff, Vattel and others to the actual politics of a rising nation was in a sense the "twilight" of the classical school of international law.

Its appeal henceforth was chiefly academic, and men turned from the ruins of the old to reconstitute a new law of nations. In the latter, Jefferson is no mean figure. Amid the wealth of his ideas on a multiplicity of topics, one may glean a general system of international law in which the rights of neutrals, their freedom of commerce, the principle that free ships make free goods, and the denial of any contraband, constitute the body; while

[76] *Ibid.*, Vol. X, pp. 466, 471.
[77] *Ibid.*, Vol. I, p. 427; *ibid.*, Vol. X, pp. 433, 456, 458.
[78] *Ibid.*, Vol. I, pp. 421-422, states advantages of keeping shipping near home.

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the spirit gleams forth in aspirations for a league of nations, reluctance to see even enemies perish, and hopes for a future of coöperative effort.

Finally the same fundamental pacifism which led him to welcome a frontier unguarded by troops, impells him to clutch at any device offering the least promise as a substitute for war. Here the embargo stands out as Jefferson's grand experiment in pacifism. That it failed, for reasons which concern its operation rather than its philosophy, was a tragedy. Jefferson and his embargo did not put the finishing touches upon a working scheme of international law. On the other hand, neither can be ignored in any study which attempts to show the struggle which man has made to lift himself above the brute.

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HINDU THEORY OF INTERNATIONAL RELATIONS

BENOY KUMAR SARKAR

THE DOCTRINE OF MANDALA (SPHERE OF INFLUENCE)

The conception of "external" sovereignty was well established in the Hindu philosophy of the state. The Hindu thinkers not only analyzed sovereignty with regard to the constituent elements in a single state. They realized also that sovereignty is not complete unless it is external as well as internal, that is, unless the state can exercise its internal authority unobstructed by, and independently of, other states.

"Great misery," says Shookra, "comes of dependence on others. There is no greater happiness than that from self-rule." This is one of the maxims of the *Shookra-neeti*[1] bearing on the freedom of the *rastra*, or the land and the people in a state. Kautilya also in his remarks on "foreign rule" expresses the same idea in a negative manner. Under it, we are told in his *Artha-shastra*,[2] the country is not treated as one's own land, it is impoverished, its wealth carried off, or it is treated "as a commercial article." The description is suggestive of John Stuart Mill's metaphor of the "cattle farm" applied to the "government of one people by another."

The doctrine of independence (*svârâjya, aparadheenatva*) implied in this conception of external sovereignty was obviously the foundation of the theory of the state in relation with other states. And it gave rise to certain categories of *droit des gens* or

[1] Ch. III, line 646. Sanskrit text edited by Gustav Oppert for the Madras Government. English translation by B. K. Sarkar in the Panini Office series, Allahabad. For a brief account of Sanskrit literature on politics, see the author's article on "Hindu Political Philosophy" in the *Political Science Quarterly* for Dec., 1918, pp. 488-491.

[2] Book VIII, ch. II, Shamasastry's translation in the *Indian Antiquary* for 1910, p. 83. For older uses of the concept of *sva-raj* (self-rule) *vide* the *Atharva-Veda*, XVII, i, 22, 23, also Macdonell and Keith's *Vedic Index*, Vol. II, p. 494.

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jus gentium which normally influenced Hindu political thinking from at least the fourth century B.C. These concepts can more or less be grouped under the doctrine of *mandala*, that is sphere or circle (of influence, interests, ambitions, enterprise, and what not).

This doctrine of *mandala*, underlying as it does the Hindu idea of the "balance of power," pervades the entire speculation on the subject of international relations. It is hinted at by Shookra[3] and referred to by Manu.[4] Kamandaka[5] has devoted a whole chapter to the topic. It has been exhaustively treated by Kautilya.[6] We are not concerned here with the doctrine as such; we shall only study it in its bearing on the theory of sovereignty.

In the first place, the doctrine of *mandala* is essentially the doctrine of *vijigeesoo* (aspirant to conquest) or *Siegfried*. It is the cult of expansion. Now, the *Mahabharata*[7] inculcates the ethics of "manliness as the highest thing" and characterizes it as consisting in a ceaseless "upward striving." The same aspiration to "press only up" and "bend not" or "elect glory even at the cost of life" can influence each and all of the states on earth. The doctrine becomes necessarily a spur to the struggle for existence, self-assertion and world domination among the *Siegfrieds*. The conception is thus altogether a dynamic factor calculated to disturb the equilibrium and *status quo* of international politics.

First, then, in regard to the doctrine of *vijigeesoo*. According to Kautilya,[8] it is the ambition of each state to acquire "strength and happiness" for the people. The *elan vital* of a ruler in Kamandaka's conception[9] also lies in the "aspiration to conquer." The king, says he, should establish in himself the *nabhi* (or center of

[3] IV, i, lines 39–43.
[4] VII, 154, 156, 207, in the *Sacred Books of the East* Series.
[5] Ch. VIII, Sanskrit text in the *Bibliotheca Indica* Series.
[6] Book VI, ch. II.
[7] Book XII, ch. 56, verse 15; V, 127, 19–20; V, 134, 39; *Journal of the American Oriental Society*, Vol. XIII, pp. 156, 187–189.
[8] *Indian Antiquary*, 1909, p. 284.
[9] VIII, 1, 3, 6.

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gravity) of a system. He should become the lord of a *mandala*. It is part of his duty to try to have "a full sphere around him" just as the "moon is encircled by a complete orb." The "full sphere" is, of course, the circle of states related to the *Siegfried* as allies, enemies and neutrals. Perpetual "preparedness" must therefore be the first postulate of *Realpolitik* in Hindu theory. "One should be ever ready with *danda*" (the "mailed fist"), declares Manu[10] naively, "should always have one's might in evidence and policies well-guarded, as well as be ever on the look out for the enemy's holes." Further, one should "bring to subjection all those elements that are obstacles to the career of triumph."[11]

The *rationale* of this preparedness is very simple indeed. It is as elemental as human blood itself. It goes without question in *Shookra-neeti*[12] that "all rulers are unfriendly," nay, they are "secret enemies to those who are rising, vigorous, virtuous and powerful." "What wonder in this?" asks Shookra, and his solution is given in another query which carries its own answer: viz., "Are not the rulers all covetous of territory?" Such being the data of international psychology, Kamandaka[13] frankly suggests that "in order to do away with one's enemies their kith and kin should be employed" whenever possible. For, is not poison outdone by poison, diamond cut by diamond, and the elephant subdued by the elephant? "Fishes, again, swallow fishes, similarly relatives relatives." The *Ramayana* is cited in the *Kamandaki-neeti* for a corresponding precedent in diplomatic tactics. The fact is well known that in order to overthrow Ravana his brother Vibheesana was exploited by Rama.

The *vijigeesoo*, then, cannot by any means afford to indulge in pious wishes or have faith in the Utopian statecraft of idealistic dreamers. What under these conditions are likely to be the relations between the hypothetical Siegfrieds of the *neeti-shastras*? These firebrands are normally endowed with a war-men-

[10] VII, 102.
[11] *Manu*, VII, 107.
[12] IV, i, lines 15–17.
[13] VIII, 58, 67.

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tality and a bellicose attitude. The world in their eyes is a theater of warfare and equipment for warfare, and they proceed on the assumption that nothing can be unfair in war. The student of political science must therefore have to make almost the same remarks about the "aspirants" of Hindu political speculation as those of Grotius in the prolegomena to his epoch-making *Laws of War and Peace* (1625). "I saw prevailing throughout the Christian world," writes the father of international law, in regard to the European international politics of the early seventeenth century, "a license in making war of which even barbarous nations would have been ashamed. Recourse was had to arms for slight reason or no reason, and when arms were taken up, all reverence for divine and human law was thrown away, just as if men were henceforth authorized to commit all crimes without restraint."

The theorists who propounded the cult of *vijigeesoo* would have been in good company with the philosophers of ancient Greece. In Aristotle's postulate of "natural" slaves, "natural" masters, "natural" wars, and so forth, the writers of the *neeti-shastras* could easily find a place for the "natural" aspirations, "natural" allies and "natural" enemies of their doctrine of *mandala*. The *Politica* assumes that the "barbarians," or non-Greeks, were intended by nature to be slaves[14] and ruled by the Greeks. And since slaves are "property" like "other things," warfare with the object of making slaves and thus acquiring wealth is a legitimate and "naturally just" occupation.[15] This Aristotelian justification of warfare can be easily recognized as forming the theoretical basis and psychological background of all wars from the conquests of Alexander and the Roman Caesars down to the Thirty Years' War.[16] Furthermore, the methods and tactics of the Christian *vijigeesoos* who are responsible for the expansion of Europe in Asia, Africa and America, can all be traced to the dicta of the father of political science, though as a rule moralists are apt to associate them with the teachings of Machiavelli's *Prince* (1513).

[14] Book I, chs. II, VI.
[15] Book I, ch. VIII.
[16] Lawrence's *Essays on Modern International Law*, IV.

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The opinions adumbrated in the *neeti-shastras* are in any case neither exclusively oriental nor exclusively medieval or primitive. Nor need they be dubbed as exclusively Machiavellian. For has not the *Prince* furnished the fundamental logic of statesmen from the Athenian Pericles and Macedonian Philip down to the Metternichs, Bismarcks and Cavours of our own times? "Also it must be recognized," as Figgis, justifying the methodology of Machiavelli, says in his volume on political theory, *From Gerson to Grotius*,[17] "that in a state of things like international politics, where there is no recognized superior, and even International Law is but the voice of public opinion, the condition of affairs is very much more nearly akin to the state of nature as imagined by Hobbes than it is in the relation of individuals." It is on such considerations that, like Machiavellism, the doctrine of *vijigeesoo* maintains its legitimate place in a theory of international relations. It provides an unvarnished statement of the only hypothesis which can satisfactorily explain the innate militarism that the human world inherits from "beasts and birds."

Let us now examine the other aspect of the doctrine of *mandala*, that of the struggle for existence and "place in the sun" among the states. To a *vijigeesoo*, as Bhisma[18] declares, "right is that which a strong man understands to be right;" and the international *mores* of the *Mahabharata*[19] is summed up in the dictum that "victory is the root of right," just as its creed of life for the individual appraises "death as better than lack of fame." How, then, is this quest of fame, victory or world domination to be regulated by each state in competition with the others? Are there any rules or methods by which the competing states may guide themselves in this conflict of aspirations? These constitute in substance a natural corollary to the doctrine of *vijigeesoo*.

The "proper study" of the *vijigeesoo*, a Kaiser Wilhelm *in posse*, is, according to the *Manu Samhita*,[20] his own and his enemy's spheres. And how are these spheres located in his

[17] Page 101.
[18] *Mahabharata*, Book II, ch. 69, verse 15.
[19] *Journal of the American Oriental Society*, Vol. XIII, pp. 187–189.
[20] VII, 154.

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imagination? Shookra gives a brief summary of the Siegfried's investigations as to the "balance of forces" or "conjuncture of circumstances" with a view to "the Next War." We are told that the enemies diminish in importance according as they are remote from the "centre of the sphere." First to be dreaded by the *vijigeesoo* are those who are situated around or very near his own state, then those who live farther away,[21] and so on. With the remoteness of location, enmity, hatred or rivalry naturally declines. Whether a state is to be treated as inimical, indifferent or friendly depends *per se* on its propinquity or distance. The geographical distribution of states influences their psychology in regard to their neighbors as a matter of course in such an order that the positive antipathy of the nearest dwindles into tolerable apathy of the next and gives way to active sympathy and even friendliness of the farthest distant. This, however, is not the only possible grouping of powers in a *vijigeesoo's* estimation. The *Shookra-neeti*[22] gives another order in which the states may be distributed. According to this computation, first are situated the enemies, then come the friends, next the neutrals, and the most remote on all sides are the enemies again.

These are the elementary principles of international dealings of which elaborate accounts are given in the writings of Kautilya and Kamandaka. The theory holds that there is a hypothetical tug-of-war always being fought between the *vijigeesoo* and his *ari* (the enemy). These two are the combatants or belligerents. Along with these are to be counted another two states in order to furnish a logical completeness to the hypothesis. The *quadrivium* [23] consists of the following members:

1. The *vijigeesoo:* the aspirant, e.g., an Alexander "mewing his might," bent on "conquering and to conquer;"

2. The *ari* (the enemy): the one that is situated anywhere immediately on the circumference of the aspirant's territory;[24]

3. The *madhyama* (the mediatory): the one (located close to

[21] *Shookra-neeti*, IV, i, lines 39–41.
[22] *Ibid*, IV, i, lines 42–43.
[23] *Kamandaki-neeti*, VIII, 20; *Manu*, VII, 156.
[24] *Artha-shastra*, Book VI, ch. ii, in the *Indian Antiquary* for 1909, p. 283.

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the aspirant and his enemy) capable of helping both the belligerents, whether united or disunited, or of resisting either of them individually;[25]

4. The *udaseena* (the indifferent or the neutral): the one (situated beyond 1, 2, and 3) very powerful and capable of helping the aspirant, the enemy and the mediatory, together or individually, or resisting any of them individually.[26]

These four states, then, constitute the smallest unit of international grouping. From the standpoint of the *vijigeesoo* all other states are either his own allies or the allies of his enemy. Such states are held to be eight in number according to the hypothesis. How, now, is the "aspirant" to pick up his own allies from the crowd? He need only study the geographical position of these states with reference to the belligerents, i.e., to himself and to his enemy.

The *madhyama* (the mediatory) and the *udaseena* (the neutral) may be neglected by the Siegfried, for the time being, in his calculation of the possible array of forces directly allied or inimical to his career of conquest. The two belligerents, with the eight others (divided in equal proportion as their allies *in potentia*), are then located in the following order of *entente cordiale* by Kamandaka[27] and Kautilya:[28]

The "aspirant" occupies, of course, the hypothetical center. Next to his front is the "enemy." Now we have to calculate frontwards and rearwards. Frontwards: next to the "enemy" is situated (1) the aspirant's ally, next to that is (2) the enemy's ally, next (3) the ally of the aspirant's ally, and last (4) the ally of the enemy's ally. Rearwards from the aspirant: First is situated (1) the rearward enemy, next is (2) the rearward ally, then comes (3) the ally of the rearward enemy, and last (4) the ally of the rearward ally.

There is nothing queer, archaic or unworkable in this conception of international relations. A simple illustration would

[25] *Ibid.*
[26] *Ibid.*
[27] VIII, 16, 17.
[28] Book VI, ch. II, *Indian Antiquary*, 1909, p. 284.

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show how humanly the political theorists of India approached the foreign policy of nations. Thus, for instance, according to the Kautilyan doctrine of *mandala*, the "natural enemies" of France engaged in studying the *modus operandi* for "the next war" would be Spain, England and Germany, and her "natural allies" Portugal, Scotland, Ireland and Russia. A French *vijigeesoo*, e.g., a Napoleon, embarking on a war with Germany, should begin by taking steps to keep his "rear safe." With this object he should have Spain attacked by Portugal, and manage to play off the anti-English forces in Ireland and Scotland in such a manner that England may be preoccupied at home and unable to attack France in support of Germany. As Germany, on the other hand, is likely to have China as her natural ally (supposing there is no other state between Russia and the Far East), the French *vijigeesoo* should set Russia against China, and so on. It is obvious that the diplomatic feats conceived by the Hindu political philosophers could be verified almost to the letter by numerous instances in European and Asian history, especially in ancient and medieval times when Eur-Asia was divided into numberless nationalities.

Be this as it may, we have to observe that the group of ten states or a *decennium* constitutes one complete *mandala*. The *vijigeesoo* is the center of gravity of this sphere. Now each state can have the same legitimate aspiration, that is, each can be fired by the same ambition to form and figure out a sphere of its own. The inevitable result is a conflict of interests, a pandemonium of Siegfrieds united in discord. The problem of statesmen in each state is to find out the methods of neutralizing the policies of others by exploiting the enemies of its rivals in its own interest. The doctrine of *mandala* thus makes of *neeti-shastra* or political science essentially a science of enmity, hatred, espionage and intrigue, and an art of thousand and one methods of preparedness for "the next war."

We need not go into the details of the *Machtpolitik* conceived in Kautilya's *Artha-shastra* or in the sections on warfare in the *Shookra-neeti*. But it is already clear that the doctrine of *man-*

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dala has launched us at last into *mâtsya-nyâya*,[29] the logic of the fish, the Hobbesian law of beasts, anarchy. The doctrine assumes and is prepared for a world of eternally warring states. While "internal" sovereignty dawns as the "logic of the fish" sets, "external" sovereignty postulates the existence of the same logic as a fact in international relations. In one instance *danda*[30] or punishment, that is, "sanction" of the state, is exercised to crush anarchy, but it is apparently in order to maintain a world-wide anarchy that *danda* or *Faust-recht* is employed by one state against another. The theory of the state is thus reared on two diametrically opposite conceptions:

1. The doctrine of *danda*, which puts an end to *mâtsya-nyâya* among the *praja* or members of a single state;

2. The doctrine of *mandala*, which maintains an international *mâtsya-nyâya* or the civil war of races in the human family.

From one anarchy, then, the state emerges only to plunge headlong into another. This is the dilemma that pervades the political philosophy of the Hindus.

THE DOCTRINE OF SÂRVA-BHAUMA (WORLD SOVEREIGN)

The Hindu theory of sovereignty did not stop, however, at the doctrine of a universal *mâtsya-nyâya*, that is of a world in which each state is at war with all. It generated also the concept of universal peace through the establishment of a *Weltherrschaft* as in Dante's *De Monarchia*.[31] The doctrine of *mandala* as a centrifugal force was counteracted by the centripetal tendencies of the doctrine of *sârva-bhauma* (the ruler over the whole earth). To this theory of the world state we shall now address ourselves.

In Europe the idea or ideal of a universal empire took most definite shape towards the beginning of the fourteenth century "exactly when the actual development of the modern nationalities was rendering it practically impossible."[32] This crisis and

[29] Kautilya, I, 4; Kamandaka, II, 40.
[30] Manu, VII, 20; Shookra, I, line 45.
[31] I, 4, I, 8, I, 10, etc.
[32] Carlyle's *Mediaeval Political Theory in the West*, Vol. III, 179.

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this transition in Western political thought are best represented by Bartolus (1314–1357), the "prince of jurists," for he began[33] by seeing a single universal empire, but he ended by recognizing a miniature empire in every *de facto* independent power. The same conception of a world sovereignty or a *federation de l'empire* is however as old in India as the political philosophers of the earliest Vedic period.

"Monarchy at its highest," we read in the *Aitareya Brahmana*,[34] "should have an empire extending right up to natural boundaries, it should be territorially all-embracing, up to very ends uninterrupted, and should constitute and establish one state and administration up to the seas." The ancient theorists were evidently thinking of the Indian continent as identical with the entire world. The achievement of a pan-Indian nationality was in their eyes the equivalent of a world federation just as in medieval European theory the unification of western Christendom was tantamount to the constitution of one state for all mankind.

This theory of a world nationalism (or, what is the same thing, a United Indianism) exercised a powerful influence on the political speculations of the Hindus. It gave rise to set formulae and slogans that fired the imaginations of the Alexanders, Charlemagnes and Fredericks of India through the ages. The *Aitareya Brahmana*[35] records some of the ambitions and ideals of the Young India of the sixth century B.C. and beyond. "I want to attain to lordship over all rulers," proclaims one aspirant, "I want to achieve the conquest of both space and time . . . I want to be *sârva-bhauma* . . . . and be the *eka-rat* (sole monarch) of the earth up to the skies."

Hindu political thought produced several other categories to express the same idea of the world state or universal sovereignty. We have, first, the doctrine of *chakravarti*. It indicates that the *chakra* or wheel of the state chariot rolls everywhere without obstruction. The wheel is the symbol of sovereignty. Or, if *chakra*[36] be taken as denoting a country from sea to sea, the

[33] Woolf's *Bartolus*, 45, 109, 196.
[34] VIII, 4, 1, in Radhakumud Mookerji's *Fundamental Unity of India*, p. 89.
[35] VIII, i, 39.
[36] Monier Williams' *Dictionary*.

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chakravarti would be the ruler of a state from sea to sea (i.e., extending to the farthest limits). It is this conception of a political "dominion," of a secular overlordship, that is employed metaphorically with a spiritual significance in the conception of the Lord Buddha as *Chakkavatti*. "A king am I, Sela," says Buddha[37] using the language of his contemporary imperialists, "the king supreme of righteousness. The royal chariot wheel in righteousness do I set rolling on—that wheel that no one can turn back again."

Secondly, we have the doctrine of *sârva-bhauma* expressed in the more popular and conventional conception of *samrat*. The *Mahabharata*, for instance, uses this category in order to convey the idea of a world dominion. "There are *rajas* (kings) in every home (state) doing what they like," we read in the Book on *Sabha*,[38] "but they have not attained to the rank of *samrat;* for that title is hard to win." And this rank is at last won by Yudhisthira in the epic. Yudhisthira would thus be the *Veltro* of the *Divine Comedy*.

Another category in which the doctrine of *sârva-bhauma* is manifest is that of *châtooranta*, of which Kautilya[39] availed himself in order to establish his ideal of imperial nationalism. The *châtooranta* state is that whose authority extends up to the remotest *antas* (limits) of the *chatoor* (four) quarters. The ruler of such a state *ananyam prithiveem bhoomkte*, i.e., enjoys the whole earth with none to challenge his might. In the *Artha-shastra*, he is known also as *chakravarti*, for the territory of such a *châtooranta* is called *chakravarti ksetra* (dominion of a *chakravarti*).

The *sârva-bhauma*, *chakravarti*, *samrat*, or *châtooranta* of Hindu political theory is identical with the *dominus omnium*, or lord of *universitas quaedum* in Bartolus's terminology,[40] the *hwangti* of the Chinese.[41] He is "the monarch of all I survey." He rules a state whose limits extend from sea to sea (*asamoodra-*

[37] *Sela-sutta* in *Sutta-nipata*, III, 7, 7; Hardy's *Manual of Buddhism*, p. 126.
[38] *Maha, Sabha* XV, 2.
[39] *Artha-shastra*, Mysore edition, pp. 11, 33.
[40] Woolf's *Bartolus*, pp. 22, 196.
[41] Hardy, p. 126.

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ksiteesa), and his chariots have free passage up to the skies (*anaka-ratha-vartma*), as Kalidas, the Vergil of India, puts it in his *Raghu-vamsha* ("The House of Raghu"). The pretensions of the doctrine of *sârva-bhauma* thus bear close analogy with the universal authority claimed by Hildebrand (*c*1075) for the Papacy, or with that rival conception of his opponents, the Ghibelline imperialism of the Hohenstaufens. Herein is to be perceived the Hindu counterpart of the doctrine, albeit from the monarchical angle, of a single state for entire humanity, the futurist version of which has embodied itself from time to time in the visions of "permanent peace," or in the pious wishes for a "parliament of man" or for the now popular "league of nations."

The doctrine of *sârva-bhauma* does not stand alone in Hindu political philosophy. It is backed up by several other concepts which may be regarded as its logical feeders. First is the concept of the gradation of rulers in the scale of sovereignty. The *Rig Veda*,[42] the *Shatapatha Brahmana*,[43] and other ancient documents recognize a hierarchy or graded rank of states from the lowest unit up. According to the *Aitareya Brahmana*[44] the smallest nationality is a *rajya*. From this rung the ladder gradually takes us through higher or larger "powers" like the *samrajya*, *svarajya*, *vairajya*, and *maharajya* up to the greatest power, known as the *adhipatya*. Another scale of small nationalities, medium states, and great powers is furnished in the following schedule of the *Shookra-neeti*:[45]

Title	*Annual Income in Silver Karsa*[46]
1. *Samanta*	1 to 3 hundred thousand
2. *Mandalika*	3 hundred thousand to 1 million
3. *Raja*	1 million to 2 million
4. *Maharaja*	2 million to 5 million
5. *Svarat*	5 million to 10 million
6. *Samrat*	10 million to 100 million
7. *Virat*	100 million to 500 million
8. *Sârva-bhauma*	500 million and up

[42] IV, 21, 1.
[43] XI, 3, 2, 1, 6.
[44] VIII, 4, 1.
[45] Ch. I, lines 365–374.
[46] A little more than 25 cents in present United States currency.

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The *sârva-bhauma* is further described as being that ruler "to whom the earth with its seven islands is ever bound."

This concept of a scale of nationalities or a rank of states, as "first class powers" or "great powers" and "small nations" or the like, according to income and title, is essentially linked up in Hindu theory with the concept of political *yajnas*, sacrifices and rituals, which are fully described in the *Brahmanas*. The *Gopatha Brahmana*[47] says that Prajapati became *raja* by *rajasuya* sacrifice, *samrat* by *vajapeya*, *svarat* by *ashvamedha*, *virat* by *purusamedha*, and so forth. We need not go into the details of these rituals. We have only to note that not every ruler is entitled to perform any and every sacrifice. Each sacrifice has its own value or mark of sovereignty attached to it; the dignity, might and rank of states being dependent on the character of the sacrifice performed.

According to the *Shatapatha Brahmana*,[48] again, the office of the king is the lower and that of the emperor the higher, and therefore one becomes king by offering the *rajasuya*, and by the *vajapeya* one becomes emperor. But the *rajasuya* is known to be the highest sacrifice in the *Taittiriya Brahmana*,[49] for according to this work, it can be performed only by universal monarchs exercising sovereignty over a large number of princes as the lord of an imperial federation. The *Aitareya Brahmana*[50] also says that by virtue of the *rajasuya*, *Janamejaya*, *Saryata* and ten other rulers, "subdued the earth" and became "paramount sovereigns." In the *Apastamba Shrauta Sootra*,[51] however, *ashvamedha* (horse-killing) sacrifice possesses the greatest dignity, for it can be performed by a *sârva-bhauma* (the ruler of the whole earth).

It is obvious that authorities differ as to the relative importance of the political sacrifices, but all are united in the concept

[47] Part I, v, paragraph 8, pp. 77, 78, in the *Bibliotheca Indica*; *vide* Narendranath Law's "Forms and Types of States in Ancient India," in the *Modern Review* (Calcutta), Oct., 1916.

[48] V, 1, 1, 13.

[49] Rajendralal Mitra's *Indo-Aryans*, Vol. II, p. 2, 3.

[50] VIII, 21–23.

[51] XX, 1, 1.

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that the rituals have a state value on their face, and that it is the greatest power or the largest nationality alone that is entitled to the highest sacrifice (be it the *rajasuya* or the *ashvamedha*, or what not). The concept of *yajna*, like that of the scale of the states, is therefore an important element in the theory of *Weltherrschaft*, world monarchy or federated universe embodied in the doctrine of *sârva-bhauma*.

Last but not least in importance as a foundation for the doctrine of *sârva-bhauma* is the concept of *dig-vijaya*[52] or conquest of the quarters. It implies that there is no longer a mere *vijigeesoo* or aspirant, awaiting his chance, mewing his might, or watching the conjuncture for "the next war." The Siegfried has conquered the quarters of the globe, he has realized his highest ambitions. The wheel of his chariot has rolled to the very extremities of the world, and there is none to question his power and prestige. All rival states have been subdued by him. He has brought them to subjection almost in the manner that Napoleon wished when he said in 1804: "There will be no rest in Europe until it is under a single chief, an emperor who shall have kings for officers, who shall distribute kingdoms to his lieutenants, and shall make this one king of Italy, that one of Bavaria; this one ruler of Switzerland, that one governor of Holland, each having an office of honor in the imperial household." *Dig-vijaya* has conferred on the *vijigeesoo* the chiefship of such a Napoleonic league of nations.

It is under these conditions of a "conquest of the quarters" that the hero of the *Raghu-vamsha* is authorized to celebrate the *vishva-jit* (indicating world subjugation) sacrifice at the end of his Alexandrine exploits. *Dig-vijaya* brings about a situation in which there is absolutely no scope for the doctrine of *mandala* or international *mâtsya-nyâya*. The world is at peace under the undisputed sway of the lord of the *universitas quaedum*, the *sârva-bhauma*. The unstable equilibrium of a *vijigeesoo's* hypothetical *mandala* has given way to the *pax sârva-bhaumica* established by the *de facto* monopoly of world control through *dig-vijaya*.

[52] *Aitareya Brahmana*, VIII, 4, 1; for instances of *dig-vijaya* in Hindu political tradition *vide* Mookerji, p. 87.

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A natural concomitant of the concept of *dig-vijaya* is the idea that the *sârva-bhauma* has all the other rulers related to him not as to the *vijigeesoo* of a *mandala*, that is, not as to the ambitious storm-center of an international sphere, but bound as to a *râja-râj*, or king of kings, to whom allegiance is due as overlord. With the rise of the *sârva-bhauma*, the *mandala* necessarily disappears. The old order of the "enemy," the "neutral" and other states has vanished, the new order of the world state has arisen. An epoch of universal peace has replaced the age of warring nationalities, conflicting *ententes*, and militant attitudes. The doctrine of *sârva-bhauma*, as the concept of federal nationalism, imperial federation, or the universe state, is thus the keystone in the arch of the Hindu theory of sovereignty. The doctrine of unity and concord is the final contribution of *neeti-shastras* to the philosophy of the state.

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THE NEW PHILIPPINE GOVERNMENT

MAXIMO M. KALAW

University of the Philippines

When the American government decided for the first time to try the experiment of colonial government in the Philippine Islands, they had no light to guide them save the experience of other European nations which had colonies in Far Eastern Asia. Ignorant of Philippine conditions, the American statesmen at first thought that the problem of governing the Islands was similar to the task of the European powers in governing our neighbors, Java, the Malay States, and India. Their first idea was, therefore, to study the colonial systems of these countries. One of the first public documents printed by the American Congress, in 1899, accompanying the Treaty of Paris, was devoted to the study of the colonial systems of the Orient with a view to their application in the Philippines. But upon a closer observation of Philippine conditions they found that the principles of European colonization would not work in the Islands, not only because American aims were more altruistic but because political conditions were entirely different. Roughly, colonial government in the neighboring countries is based on the existence of native rulers, rajahs or princes, whose authority has been for centuries recognized by the natives themselves. Apparently and ceremoniously the native princes still rule, but in reality it is their respective European "advisers" or "resident-generals" who are the actual rulers. Instead of establishing a new form of government, abolishing the rajahs and native rulers, the Dutch and the English simply improved the native institutions, using these same rulers as instrumentalities through which to impose their own governments.

Now these conditions do not exist, and have not existed in the Philippines for more than two hundred years. The greatest

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political service of Spain to the Philippines was the abolition of this native system of government and the extinction of royal or princely families. The establishment of Christianity in the Islands sowed the first seeds of equality and democracy, and the centuries of Spanish domination completely effaced from the Christian population all blood and family distinction.

Upon the coming of the Americans, the Philippines had at least a system of local government by suffrage, however defective and limited in practice it was. The work of propaganda for reforms in Spain had brought to the front national leaders, recognized by all the Christian Filipinos not for their princely blood, for they had none, but for their unquestioned ability. The leadership and martyrdom of the national hero, Josè Rizal, was a proof that the Filipinos could look at some one man as a national guide and inspiration. They had long discarded the tribal conception of social organization. The establishment of a Philippine Republic, and the subsequent war with the United States, made it even more apparent that the people could establish a national government after the occidental type. It was for these reasons that the American statesmen who had been studying the governmental forms of Java and the Malay States desisted from their original idea of applying this type of government in the Philippines. There was a potential democracy in the Islands.

Without belittling what America has done for the Philippines, it must be recognized that the progress towards democracy in the Philippines has been due mainly to the materials that America found there. This made America's task a great deal easier. That was why even the early military governors of the Philippines found no difficulty in continuing to a large extent the municipal government of the Islands, giving it a larger autonomy. The first local elections in the Philippines took place under the supervision of military officers. After the extension of municipal autonomy came the establishment of provincial government under a board composed of an elective governor and two other provincial officials appointed by the governor-general. Following the popular demand, the provincial government was again changed and complete provincial autonomy was given under a provincial board entirely elected by the people.

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The Congress of the United States, in passing the Organic Act of 1902, decided to call a national assembly in 1907 to participate in the national law making. Being the only representative governmental body, this assembly became the exponent of the ideals and aspirations of the Filipino people. It represented their "counsel." While there were other Filipino officials in the upper house appointed by the President, the speaker of the national assembly was considered the leader of the people in the government. He exhibited the double representation of his district and of the entire body which elected him. He represented more narrowly the "counsel" of the people. His rise in influence had been due, therefore, not so much to the fact that he was the presiding officer of the assembly, but because he was the only man in the government who could truly be said to represent the people. The more a governor-general wanted to make his administration popular, the greater became the power and influence of the assembly, and consequently that of the speaker. The Filipino people looked to the speaker for the success or failure of the part they were taking in the government.

The assembly typified all the ideals of the people, and every step towards a more liberal form of government was advocated and insistently contended for by that body. It insisted that, being the popular body, it should initiate all appropriation bills. It also fought for the control of the resident commissioners in the United States. The law provided that the two representatives in Washington should be elected by the two houses, but inasmuch as the intention was to send representatives of the Filipino people and not of the administration and because the upper house was controlled by Americans, the assembly argued that it should have the final say as to the choice of these men. There were continuous conflicts on other governmental matters between the lower house and the appointive commission. Deadlocks were constant on the appropriation bills, the representatives of the people being solidly opposed to the financial policies of the American controlled upper house. The provision in the law to the effect that in case of such deadlocks the total sum of the previous appropriation law would, upon the advice of the

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governor-general, be considered appropriated for the ensuing year, left the popular chamber with very little financial power. Add to this the fact that the upper house, or the Philippine Commission, had exclusive jurisdiction over the non-Christian parts of the archipelago—almost one-third of the total area of the Islands—and we have an indication of just how much power the assembly had.

The government then established—the mixture of a representative institution and an irresponsible executive and administration—was hence very unsatisfactory. That type of government has failed wherever it has been established. It failed in the early English colonies, where, as in the Philippines, the lower house became the stronghold of the people, and the governor and his council the representatives of the crown. It failed in Canada, where, because of threatened separation from the mother country, the system had to be completely abolished and a responsible government established—a government wherein not only the lower house is subject to the people's call, but also where the chief executive merely acts as a passive and ceremonial figure leaving all governmental affairs in the hands of a select body, the cabinet, responsible to the people or their representatives.

But though the power given the Filipinos in the old régime was thus limited, there was an advantage in the system in that there was unity of leadership among the members of the assembly. Besides the leadership assumed by the speaker, the internal organization of the assembly also made for unified action. While the house was like the American legislatures, divided into many committees, there was a "committee of committees," so to speak, the committee on appropriations, composed usually of chairmen of other committees, to which all matters touching revenues and expenditures were referred. There was, therefore, no confusion of counsel. Even after the majority of the appointive commission became Filipinos, the assembly retained the confidence of the people, so that when a Democratic administration came, with the desire to give the people more power, the problem of popular government in the Islands, in so far as it could be possible within the limitations of the then Organic Act, was relatively simple:

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there was but one real leader of the people, and that was the speaker of the assembly. Governor-General Harrison had naturally to call on him and other recognized leaders of the assembly for advice on governmental matters. He became a sort of constitutional monarch in the Philippines, listening to his responsible advisers on governmental questions; or, better still, he approached more the type of the English governor of a self-governing colony ruling upon the advice of the local cabinet.

The Jones Law made the problem of popular government in the Islands in a way more difficult. Being a complete constitution made by an alien people, outlining a framework of government for another people, ten thousand miles away, living a different life, and nourished by different political traditions, its practical application presented some very serious problems. The solution of these problems by the Filipino people would in itself indicate the grade of political capacity they have attained. The fundamental defect of the Jones Law lay in the fact that Filipinos were granted and told to work out a complete system of government in the framing of which they had but a very small share, if any. Under the Jones Act, besides the Philippine assembly, two other governmental instruments or powers were given the Filipinos: to the lower elective house was added an elective senate, and the Philippine legislature was given the right to reorganize the executive departments, with the exception of the department of public instruction. There were at first conflicting opinions as to how large a portion of the executive function was meant to be given the Filipinos. Would the Filipino executive heads appointed by the governor-general, with the consent of the senate, be responsible to the people or their representatives? It is true that their appointment, like all others made by the governor-general, requires the consent of the Philippine senate; but under the American federal system the President's cabinet is also appointed with the consent of the senate of the United States, and yet the American cabinet members are in reality mere agents of the President. They are not responsible to Congress, and the senate's consent simply comes as a matter of form. The executive power being vested in the

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President, and there being, legally at least, complete separation between the executive and the legislature, all executive officials are in reality simply his agents. The executive power under the Jones act is, as in the American government, vested in the governor-general. Therefore it was, in the opinion of some, more than likely that the heads of the executive departments would be mere agents of the chief executive.

But the liberal constructionists triumphed. We must get the answer from the spirit and purpose of the act, they said. The purpose of the act is to give to the Filipinos as large a control of their affairs as can be given to them without impairing the rights of sovereignty of the United States. The mere giving of two branches of the legislature would not make the government an autonomous one if the people were not given a hand in the execution of the laws and in the administration of the government. Considerable executive power must, therefore, be given to the people. This interpretation was supported by Governor Harrison in a statement given on September 1, 1916, in which he explained the meaning of the bill. He said:

"The main points of opposition to the bill centered upon the promise in the preamble of ultimate independence, and the power of confirmation of executive nominations by the Philippine senate. So far as my own personal efforts could be of any influence, these were the two points upon which the greatest insistence was laid. With the support of the President and the work of friends in Congress, both questions have been resolved favorably. I am a firm believer that an executive should consult the people, through their representatives, as to who shall serve them in office. This is the vital nerve of self-government. It should never be possible, and it will now never be so here, for an executive to ride ruthlessly over the people he is sent here to govern, without due regard for their sentiments and due consideration of their wishes."

Inasmuch as the cabinet members are not elected by the people, they must be appointed only after consultation with members of our legislature, "the representatives" of the people. If that be the case, then a certain amount of responsibility of the cabinet

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to the legislature and indirectly to the people is assured. Credit must be given Governor-General Harrison for the splendid manner in which he has carried out the spirit of the Jones act.

The Filipinos, therefore, have under their control three important and distinct instrumentalities of government: to the lower house or assembly granted us in the Organic Act of 1902 were added the senate and the executive posts, except the secretaryship of public instruction. The organization of the new government brought forth several serious problems. These three organs of government, two legislative and one executive, must collectively possess for their proper and efficient operation first, harmony of action, and, second, effective responsibility to the people. These qualities should exist in all governments, but particularly in a governmental organization still dependent on a foreign flag. While the Filipinos remain under American sovereignty there must be complete harmony of action and community of purpose in all the governmental organs that may be established, and, lest these organs be used arbitrarily, they must be made amenable to public opinion and responsible to the people. How could this be done? When there was only one organ for expressing the people's will, the Philippine assembly, and a new governor wanted to use this organ so that he might govern with the sanction of public opinion, it was easy to place the responsibility on the speaker of the Philippine assembly. He was, as one editor graphically described him, at the head of the Philippine government on behalf of the Filipino people. Who was to take that place under the new arrangement? Should he be the speaker of the assembly as before? And how about the president of the senate? And the heads of departments? How was the collective counsel of the people to be represented? Who was the Filipino power in the government, entitled by virtue of his representation to be first heard on important state affairs? Who was to be the man mainly responsible for the failure or success of the Filipino part in the government?

One of the political teachings of the recent war seems to offer a solution of the very problem which vexed the Filipinos in the organization of the new government. The critical war period as well

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as the present era of reconstruction where tremendous problems must be solved seems to point out the necessity of a more unified and responsible leadership on whom the initiation and responsibility for governmental measures should fall. How often has the United States appeared weak and vacillating before Europe, because of the extreme separation and independence between the legislature and the executive, the dislocation of responsibility for governmental policy, and the constant rivalry between the President and Congress!

In the Philippines one thing was found necessary: there must be harmony and coöperation in the control of the executive and the legislative departments given the Filipinos. The legislature is the immediate representative of the people, and, unless it was decided to make the departmental heads elective at large, they must be made directly responsible to the legislature, so that they can in turn be made responsible to the people. This is in truth at variance from the American system of the complete separation of the executive from the legislative departments; but there is an excuse in America for such a separation, and that is the responsibility of the chief executive to the people. The secretaries of departments are responsible to him directly and not to Congress, for he is in turn directly responsible to the people. The peculiar situation in the Philippines demanded the adoption of another system. The governor-general still remained an American, a representative of an external government and sovereignty, and responsible to America. If there were to be checks and balance among the political powers of the Philippines, it should be exercised by the governor on the one hand and the Filipino element on the other.

With the inauguration of the Philippine Congress in October, 1916, the governmental machinery brought over by the Jones Law actually began to function. Even in the early days of its organization, the absence of a legally united and responsible leadership was apparent. The two houses of the legislature were both elective, with co-equal legislative powers. The lower house, with its tradition dating from the inauguration of the assembly ten years before, its brilliant record as the spokesman

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of the people, and the conflict it had waged with the commission, together with its supposedly more popular character because of a shorter tenure of office, impressed its members with its importance. On the other hand, there was a new glamor in the name of senate, and hence the people had from the beginning an instinctive feeling that somehow or other it was a more important body. President Quezon, in his inaugural address, referred to the popular character of the senate, intended to represent, so he claimed, the maturer judgment of the people. That there should be a rivalry between these two houses was only natural. Harmony and coöperation between the two bodies was, however, made possible by the presence of an extra-legal factor—the political parties. Caucuses were at once held by majority members of the two houses, and, because of the overwhelming majority of the Nacionalista party, a party policy could be enunciated and followed. The president of the Nacionalista party continued to be Speaker Osmena of the lower house, and the senators, for party discipline, had to follow his leadership.

In the meanwhile the question of reorganizing the executive departments had been taken up. The statement of Governor Harrison that he would consult the people's representatives in the selection of officials insured a certain measure of cabinet responsibility on the part of future executive heads. It was advocated that members of the legislature be allowed to hold departmental positions, and that the practice of ministerial responsibility to the legislature be followed. Some questioned the practicability of this plan, inasmuch as the governor-general still had the supreme executive power as well as the appointive power. Senate President Quezon answered this objection, saying that "although under the Jones act the secretaries will be responsible to the Governor-General, yet in the development of the system which we implant under this bill, the day will come when the secretaries shall, at least in part, be responsible to the Houses." "It has been deemed advisable," said Senator Palma, "to provide in the bill that it shall be the duty of the heads of the executive departments to appear in either House whenever called upon to do so, not only for the purpose of reporting upon

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their official acts and measures, but also to collaborate in the policy and in the preparation of the acts passed by the Legislature. This can only be done if the department heads are members of the Houses. The duty to appear in either House of the Legislature may not look like very much on paper, but in reality it signifies a great deal. The department heads will not only have to give the information required of them, but being often subjected to minute interrogation they will have to explain and defend their official acts. If the Houses can demand of them that they give an account of their official acts, they are responsible to the Houses, though ultimately responsible to the Governor-General. We cannot claim more under the provisions of the Jones Bill."

The Reorganization Act retained the old department of the interior and created five executive departments: Public instruction, finance, justice, agriculture and natural resources, and commerce and communications. The executive heads are to be elected at the beginning of every legislature, which means that they are to be chosen from the triumphant party in the preceding election. They may be called by and may voluntarily appear before either house. Legislative members can be appointed to the cabinet.

There was at first the idea of placing Filipino leadership in the cabinet instead of in the chairmanship of either house, and giving some members of the legislature cabinet posts, but the prohibition against legislators occupying positions created during their term of office made only one cabinet position available, the secretaryship of the interior. The senate would not be represented in the cabinet if the portfolio of secretary of the interrior was given to the house leader. So the plan of placing leadership in the cabinet was abandoned, and the real legislative leaders had to remain outside the cabinet and continued to be the presiding officers of both houses. The floor leader of the senate, however, was appointed secretary of the interior, and the other cabinet members appointed were all friendly to and in harmony with the party in power in the legislature. The presiding officers of both houses, because of their personality and the prestige of

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their positions, continued to be the most influential men in the government and the governor-general's chief advisers.

The problem of an open and responsible leadership thus remained unsolved. Although everybody knew that Speaker Osmena was the Filipino power in the government, his influence was no longer due mainly to his official position, but because he was the president of the triumphant party. This was a bad precedent, for then anybody who could, by hook or crook, become the leader of the party in power would be the most influential man in the government, and there would be the same problem of government by irresponsible party bosses which infests some American states and cities. It was urgent that out of the different instrumentalities of government granted by the Jones Law to the people, a definite body be created or recognized to represent more particularly the counsel of the people, to breathe harmony and efficiency into the legislative and executive departments, and that in that body or council a place be assigned to a Filipino leader who would stand at the head of the government on behalf of the people, and who would be raised to that position by a triumphant majority through his undoubted leadership and the confidence he might command in the entire nation. In actual practice Filipino leadership was dispersed among cabinet members and the presiding officers of the two houses. They were chief advisers of the governor-general. They formed an incoherent group with only party discipline and loyalty to impel them to work for a harmonious action. To give a legal status to their function as advisers to the governor-general, it was decided to constitute them into a council of state "to aid and advise the Governor-General on public matters." The governor-general presides over the council and allows it to elect a vice-president who, in the very nature of things, becomes the highest Filipino official in the government.

The council of state promises to solve the problem of responsible leadership in the government. Composed as it is of the highest executive officials and the recognized legislative leaders, all of whom have been chosen with the approval of the representatives of the people, the council of state is bound to exercise

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considerable power. It can properly direct the Filipino element in the government. It can harmonize the executive and legislative departments, while not being exactly at the mercy of the transient moods of the legislature, for there is no provision for its dismissal in case its policy is disapproved by the legislature. The governor-general sees in it a responsible council on whom he can rely for advice on domestic questions. The system may perhaps be said to be a compromise between the English cabinet system and the American system. It probably approaches more nearly the Swiss federal government.

Speaker Sergio Osmena was unanimously elected vice-president of the council of state by his Filipino colleagues. His intervention in governmental matters is therefore no longer secret and extra-legal, secured by virtue of his party leadership, but open and responsible, as the highest Filipino official in the government and the chief adviser of the governor-general. The first action of the council of state indicative of a new force in the Philippine government was the recommendation that thirty million pesos be appropriated for free education— a crying need felt for many years. The recommendation was approved by the legislature, and a law was written on the statute book of the Philippines which will give the rudiments of instruction to every child of school age in the Philippines.

The Jones Law left the organization of the judiciary untouched. One of the most important contributions of American occupation to the future Philippine state is the establishment of an independent judiciary, the greatest bulwark of a government of laws. The judiciary is composed of a supreme court, courts of first instance, and justice of the peace courts. The chief justice of the supreme court is a Filipino. While there is a majority of Americans in the entire membership, its personnel is not a political factor. It has fitly held itself aloof from purely political controversies, and has gained the popular respect and reverence it justly deserves.

The position of the governor-general in the present Philippine government is a peculiar one. The learned English scholar, Mr. Bagehot, in speaking of the English government, said that

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there are two parts in that government: one is the ornamental and ceremonial part, in whose name the government is carried—the King of England, theoretically an absolute ruler; and the other is the active part, the one which really rules, which directs the ceremonial part in practically all the governmental work that it does—the house of commons, through the cabinet. The Philippine government, in a small way, is approaching a similar arrangement. The governor-general, although retaining in law the absolute executive power, rarely acts on matters of domestic concern, except with the advice of the council of state. The guide for this exercise of governmental power is the spirit and purpose of the Jones Law rather than its letter. The object of the law is, to quote its preamble, "to place in the hands of the people of the Philippines as large a control of their affairs as can be given them without in the meantime impairing the exercise of the rights of sovereignty of the people of the United States, in order that by the use and exercise of popular franchise and governmental powers they may be the better prepared to assume fully the responsibilities and enjoy all the privileges of complete independence."

We have referred to the law as a veritable constitutional compact between the American and Filipino peoples. During the discussion of the measure in Congress, our representative, the Honorable Manuel L. Quezon, expressed the views of the Filipino people as to the amount of autonomy intended in the law, in the following words: "Heretofore we have been the least and the last factor in the Philippine affairs. Hereafter we shall be the first and most important factor. Heretofore things were done by the Philippine government not only without the consent but on many occasions against the strong opposition of the Filipino people. Hereafter nothing will be done without our consent, much less in defiance of our opposition." This purpose was confirmed by the governor-general, in his statement, previously quoted, interpreting the measure.

The organization of the new government has been carried on in the light of the foregoing interpretations. That is why the Filipinos today enjoy domestic autonomy. The council of state

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is composed of eight members, all Filipinos except the vice-governor. To help the departmental secretaries in the discharge of their functions, under-secretaryships have been created, all filled by Filipinos. The departments have absolute control and direction over the government bureaus. The legislature is completely in the hands of Filipinos. While the governor-general has a veto power on legislation, subject to appeal to the President of the United States upon a two-thirds vote of both houses, he seldom exercises this power.

Secretary of War Baker, who has departmental supervision over the Philippines, has truly remarked: "Gradually and without violence, the functions of government have been taken over by the people of the Islands themselves, leaving only the tenuous connection of the Governor-General." Governor-General Harrison himself admits that there is already a "stable and progressive government" in the Islands. America may declare the Philippines independent at any moment and immediately recall her representatives from the Islands, and no institutional change will be necessary to continue the work of government there. There is a governing machinery set up by the Filipino people themselves to which the governmental powers can be transferred. In that event the Filipino people would simply repeat what Connecticut and Rhode Island did upon the Declaration of American Independence; they would declare American sovereignty at an end, bid farewell to the governor, and continue for the time being the institutional life under the present government until, of their own accord and following the recognized American practice, they could summon a constitutional convention to draft the permanent fundamental law for the first really democratic republic in the Far East.

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LEGISLATIVE NOTES AND REVIEWS

EDITED BY CHARLES KETTLEBOROUGH

Director of the Indiana Legislative Reference Bureau

Amendments to State Constitutions. This article will present an analysis of constitutional amendments proposed in the several states during 1917 and 1918, with a record of the disposition of the measures. Altogether some 240 propositions were presented, of which 52 were defeated, 34 were still pending, while 174 have been adopted. These include 17 legislative measures submitted to popular vote, of which 7 were adopted and 10 were defeated.

Massachusetts holds first place in the importance of amendments proposed and adopted, as the result of the constitutional convention in session in that state during the last two years. In 1917, the convention submitted 3 amendments, which were ratified; and in 1918, 19 additional amendments were proposed, and all were approved. The convention has met again during the present summer to act on a general revision of the constitution, incorporating all of the 66 amendments which have been adopted to the original document of 1780; and it is expected that this revision will be submitted to the voters in November.

A number of states now submit a considerable number of proposed amendments at each election. California voted on 25 proposals, of which 10 were adopted. Louisiana, which revised its constitution in 1913, and adopted 14 amendments in 1914 and 17 in 1916, voted on 14 more in 1918, all but one of which were adopted. In North Dakota 11 amendments were adopted, and four others are pending. Oregon voted on 14 proposals (7 in June, 1917, and 7 in November, 1918) of which 7 were adopted and 7 rejected. Georgia adopted 14 amendments and South Carolina 10. Missouri voted on 9 amendments, all of which were defeated. In Michigan 8 amendments were submitted, and 6 each in Idaho and New York.

A survey of the proposals submitted and adopted discloses that the field covered has a wide range and diversity. They include measures relating to the general revision of the state constitutions and methods

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of submitting amendments, woman suffrage and election methods, legislative procedure, the compensation and removal of public officials, judicial courts and judicial power to declare legislative acts unconstitutional, city and county government, public finance (taxation, debt, budget methods and public funds), schools and educational institutions, public works and improvements and state business enterprises.

Constitutions. In Arkansas a revised constitution was voted on in December, 1918, and defeated. The question of calling a constitutional convention was submitted to the electors of Tennessee in 1917, and in Illinois, Idaho, Nebraska, North Carolina and Washington in 1918. The proposition was approved in Illinois and Nebraska, where convention delegates will be elected this year; and was defeated in the other states. Massachusetts adopted an elaborate series of provisions for the initiative and referendum on constitutional amendments and laws. North Dakota adopted two amendments simplifying the procedure for the initiative and referendum on legislative measures and constitutional proposals. In Oregon, an amendment was proposed and rejected expressly declaring that no amendment to the constitution should have the effect of rendering any other part of the constitution ineffective unless such part is specifically repealed.

Prohibition. Amendments providing for state prohibition, including the manufacture, sale and traffic in intoxicating liquors, were proposed in twelve states. The amendments have been ratified in Florida, Michigan, New Mexico, Ohio, Utah and Wyoming; were defeated in California, Iowa, Minnesota and Missouri; and are still pending in Connecticut and Kentucky.

Woman Suffrage. Woman suffrage amendments were proposed in twelve states. Such amendments have already been ratified in Kansas, Michigan, Nebraska, New York, Oklahoma and South Dakota; they were defeated in Louisiana and Maine; and are pending in Connecticut, Indiana, Iowa and North Dakota. In practically all the states, the right of suffrage is conferred on all citizens regardless of sex, irrespective of other special qualifications. The amendment proposed in Maine, however, distinctly provides for the right to vote and hold office and provides that "citizens by marriage only shall not be allowed to vote or hold office until after a period of residence in the United

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States equal to that required by law for the naturalization of men," and the New York amendment provides that a citizen by marriage shall have been an inhabitant of the United States for five years.

Elections. Various amendments were proposed dealing with the electoral provisions of the constitutions other than woman suffrage. Kansas proposed and has ratified an amendment which restricts the right of suffrage to native born citizens or fully naturalized aliens. California, Massachusetts, Maryland, Michigan and Rhode Island submitted amendments authorizing absent-voting; and New York proposed an amendment providing for the registration of absent voters. The Maryland, Massachusetts and Michigan amendments were adopted; the California amendment was rejected, and the New York and Rhode Island amendments are still pending. New York proposed an amendment, which is now pending, by virtue of which the right of suffrage will be restricted to persons who are able to read and write the English language. Maine rejected an amendment which was intended to confer on the legislature the right to divide all towns into voting districts, a right which is now restricted to towns having a population of 4000 or over. Oregon ratified an amendment which requires cities and towns to hold their municipal elections on the same day as the state-wide primary and general biennial elections and to use the same election officers. The proposed North Dakota suffrage amendment will reduce the residence period of voters from 6 months to 90 days in the county, and from 90 days to 30 days in the precinct. Michigan adopted an amendment that constitutional amendments and other special questions should be printed on a single ballot separate from that for candidates. Massachusetts has adopted an amendment providing for biennial elections for state officers and members of the legislature, and another authorizing the legislature to provide for compulsory voting.

Legislatures and Legislative Procedure. Reapportionment amendments were adopted in Arizona and Georgia. An amendment proposed in Colorado, and ratified by an overwhelming majority, will reduce the period during which bills may be introduced from the first 30 to the first 15 days of the session. A Massachusetts amendment authorizes the recess of the legislature during the first 60 days of the session; another restricts the appointment of legislators to office, and their compensation for service upon recess committees. New York

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proposed and ratified an amendment prohibiting the passage of local and special acts legalizing the proceedings of the officers of any political subdivision of the state in the issuance and sale of bonds or other evidences of indebtedness or validating such evidences of indebtedness after their sale. The Oregon legislature in 1917 proposed an amendment limiting the number of bills which any member of either house, either alone or jointly, may introduce to 3; the number of bills introduced by all senate committees to 30, and the house committees to 60 and increasing the pay of members. This amendment was overwhelmingly defeated. Amendments are now pending in Delaware and New York proposing to increase the compensation of members and presiding officers of the legislature. An amendment ratified by Colorado provides that all proposed constitutional amendments and initiated and referred bills shall be published in two newspapers of opposite political faith in each county of the state not less than three nor more than five weeks before the election at which they are to be submitted.

Governor. Several Massachusetts amendments relate to the governor. One authorizes him to return bills to the legislature with recommendations for amendment. Another relates to his powers as commander-in-chief. A third provides for the succession in case of a vacancy in the offices of governor and lieutenant governor.

By an amendment of the Maine constitution, the governor is authorized to remove any sheriff who is not faithfully or efficiently performing his duties, and with the advice and consent of the council to appoint his successor. A pending amendment in Delaware will extend the governor's power of removal to any officer appointed by him except the chancellor and the five law judges, during the recess of the general assembly.

State Administration. One of the Massachusetts amendments provides that on or before January 1, 1921, the executive and administrative work of the state shall be organized in not more than twenty departments.

Judiciary. Numerous amendments have been proposed or ratified which will effect detailed or fundamental changes in the state judiciary systems. In Massachusetts, the governor, with the consent of the council, may retire judges for advanced age or disability. Louisiana

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has adopted several amendments relating to the qualification and retirement of judges, to juvenile courts and to the criminal courts of New Orleans. An amendment pending in Delaware is designed to change the personnel of the county orphans' courts; and a pending New York amendment authorizes the establishment of children's and domestic relations courts. Arkansas and Mississippi proposed amendments increasing the membership of the supreme court; the Arkansas amendment was defeated and the Mississippi amendment is pending. South Dakota, Idaho and Wyoming proposed amendments providing for the appointment of special judges to the supreme court when any regular member is disqualified to act. The South Dakota and Wyoming amendments were ratified; the Idaho amendment is pending. California ratified an amendment providing for two divisions of the district court of appeals of the first and second appellate districts and defeated a second amendment designed to effect certain fundamental changes in the court system of the state. New Mexico ratified an amendment creating an additional judicial district. An amendment is pending in Delaware, making a change in the time of paying judges' salaries, and an amendment was proposed in Georgia increasing the salaries of the judges of the supreme and superior courts and the court of appeals. North Dakota has ratified an amendment which provides that in no case shall any legislative enactment or law of the state be declared unconstitutional unless at least four (out of five) of the supreme court judges shall so decide.

Budget. Amendments for a state budget system have been adopted in Maryland, Massachusetts and West Virginia. The Maryland and West Virginia amendments provide for an executive budget, which may not be increased by the legislature, though special appropriations may be made in addition to the regular budget. In Massachusetts the budget is prepared by the governor; the legislature may increase, decrease, add or omit items, and pass special appropriations; but the governor may disapprove or reduce items or parts of items in any bill appropriating money. A proposed amendment in California providing for a state budget board was rejected.

Debt. An amendment was proposed to the constitution of Pennsylvania in 1917, and since ratified, authorizing an increase in the debt limit of the city of Philadelphia to 10 per cent of the assessed value of the property located therein. A New York amendment pro-

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posed in 1917 and subsequently ratified provides that no state debt shall be contracted for a longer period than that of the probable life of the work undertaken and not to exceed 50 years, to be paid in equal annual installments. In South Carolina eight amendments were adopted relating to city debts and special assessments. In Idaho a proposed amendment to limit the state debt to 1 per cent of the taxable property was rejected. A North Dakota amendment enlarges the borrowing power of the state.

Taxation. Numerous amendments on taxation have been submitted, dealing with broad principles, exemptions, and specific tax rates. Amendments authorizing the classification of property for taxation were proposed in Mississippi, Ohio, Oregon, and South Dakota, the latter also authorizing taxes on incomes and occupations. The Oregon and South Dakota amendments were ratified; that in Mississippi was defeated. The Ohio amendment received a majority vote, but has been held to conflict with another amendment (adopted by a larger vote) to prevent double taxation of real estate and debts secured by mortgage thereon. Montana and North Carolina ratified amendments for the exemption of mortgages; and North Dakota ratified one authorizing the exemption of personal property and improvements on land. Minor amendments relating to tax exemptions were adopted in California, Georgia, Louisiana and Utah; and an amendment on tax exemption is pending in Pennsylvania.

A single tax amendment was defeated in California; as was also an amendment proposed in Missouri for land value, excise, income and inheritance taxes. Four other amendments in Missouri to authorize increased tax rates for schools, roads and other purposes were also defeated. In Oregon proposed measures providing a tax for a new penitentiary, an increase in state taxes and establishing a children's home were defeated. In Louisiana several amendments relating to tax limits and school taxes were adopted. Kansas ratified an amendment authorizing a permanent tax for the support of state educational institutions.

A pending New York amendment proposed in 1917 is designed to create tax districts for the purpose of assessing real property; an amendment rejected in New Mexico was designed to fix the tax rate at not to exceed 5 per cent increase over the preceding year unless approved by the state tax commission; and Utah ratified an amendment changing the basis for the assessment and taxation of mines.

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Internal Improvements and State Enterprises. Many of the amendments proposed indicate a marked tendency towards an increase of state functions in relation to internal improvements, public utilities and business enterprises. The most significant program was carried out in North and South Dakota under the influence of the Non-Partisan League. The constitutional amendments proposed and ratified in South Dakota authorize the state to engage in any work of internal improvement; to own and conduct business enterprises, loan or give its credit to or in aid of any association or corporation and become the owner of the capital stock of such organizations, but the indebtedness of the state for any such purposes may not exceed ½ of 1 per cent; to purchase, own, develop and operate plants for the development of power upon the streams of the state and at coal mines on lands owned by the state, and to transmit such power and supply it to the people of the state; to manufacture and furnish to the people of the state cement and cement products; to appropriate money for the purchase or construction and operation of elevators and warehouses, within or without the state, for the marketing of agricultural products and to buy or construct and operate flouring mills and packing houses within the state. By a comprehensive amendment adopted in North Dakota, the state is authorized to engage in internal improvements, public utilities and business enterprises. By amendments ratified in 1918 the states of North and South Dakota are empowered to provide insurance against loss or damage to crops by hail, and the legislatures are authorized to levy a tax on agricultural lands to produce the necessary insurance fund and to divide the state into hail insurance districts making the levy per acre uniform in each such district.

Oregon measures, ratified in 1917, authorize a $6,000,000 bond issue for state roads, and enable port districts to raise money, not to exceed 1 per cent of the assessed valuation, and expend the same as a bonus to establish water transportation lines. Two amendments of the Michigan constitution, ratified in 1918, confer on drainage districts the authority to issue bonds for drainage purposes; and authorize the state to purchase, hold and operate any railroad or railroad property belonging to any railroad company organized under a special charter. Michigan also ratified an amendment authorizing a system of state roads and raising the road tax from $3 to $5 on each $1000 of assessed valuation. Kentucky approved an amendment which authorizes telephone companies to purchase or lease parallel or competing exchanges with the approval of the state railroad commission and the municipality within which such property or any part thereof is located.

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Louisiana adopted three amendments relating to public improvements: one authorized corporations for constructing irrigation and navigation canals and hydro-electric plants, one provided for state highways, and one extended the time to New Orleans for building a bridge or tunnel across the Mississippi river. A Massachusetts amendment, adopted in 1917, authorizes the state and local authorities to furnish food supplies in time of war; another amendment, adopted in 1918, authorizes the condemnation of lands and interests therein, including water and mineral rights, for the conservation, development and control of natural resources; another amendment, while authorizing loans for defense or war purposes, forbids the loan of the state credit to any individual or private association.

A proposed amendment in Arkansas, which was rejected, would have provided an elaborate system of rural credits on farm lands, through a state land board. Three amendments, proposed in Missouri in 1917, designed to authorize special taxes and loans for road and street improvements, were all rejected.

California ratified an amendment providing for compulsory workmen's compensation and a state compensation insurance fund. But another proposed amendment for a general state system of health and disability insurance was rejected by a decisive vote.

Pennsylvania ratified an amendment authorizing the legislature to provide for the issue of $50,000,000 in bonds to improve and rebuild the highways of the state; Illinois authorized a $60,000,000 bond issue for state roads; New York ratified an amendment which will authorize the construction of a state highway through certain state forest lands; Texas ratified an amendment which provides for the creation of conservation and reclamation districts to conserve and develop streams, arid and swamp lands, forests, water and hydro-electric power; and Wyoming ratified an amendment authorizing the legislature to levy a special tax on live stock for the purpose of raising money to aid in stock inspection, protection and indemnity.

Education. In California an amendment was adopted relating to the board of regents of the state university. Louisiana adopted four amendments providing for state and local taxes for public education. A Florida amendment enables each county to increase the school levy from 7 to 10 mills; and an amendment in Texas provides for a special fund to purchase and supply free textbooks in the public schools. A South Carolina amendment exempts Greenville county from the limi-

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tation as to the area of school districts. In North Carolina an amendment lengthening the school term from 4 to 6 months was ratified. An amendment adopted in South Dakota prescribes the conditions on which school lands may be sold and paid for; and one pending in North Dakota prohibits the investment of permanent school funds in bonds of other states, but permits loans on farm lands in the state up to one-half of their value, instead of one-third as has been provided. Proposed amendments in Oregon for a system of normal schools, and in Idaho to abolish the office of state superintendent were rejected.

Militia. A Massachusetts amendment repeals existing provisions relating to militia officers and provides that military and naval officers shall be selected and appointed and may be removed as the legislature may prescribe, but no such officer shall be appointed unless after an examination or a year's service. In Maine a proposed amendment, to authorize appointments of militia officers by the governor, subject to qualifications established by law, in place of the present provisions for elections, was defeated.

City and County Government. Four amendments to the municipal home rule provisions of the California constitution were proposed in 1917 and ratified in 1918. One relates to a borough system of government, one to a consolidated city and county government, and the others to the debts of the city of Venice and Los Angeles county. Another California amendment authorizes counties to take private property for public use without first making compensation. In New York an amendment relating to the debt limit of cities was ratified; and there is pending an amendment proposed in 1917 to authorize the legislature by general laws to confer on cities and counties certain powers of local legislation and administration. In Missouri proposed amendments to the municipal home rule provisions and relating to loans for street improvements were defeated. Georgia adopted three amendments for the creation of new counties.

Miscellaneous Amendments. The following amendments, miscellaneous in character, were proposed and ratified: In Massachusetts, forbidding sectarian appropriations, authorizing the regulation of advertising in public places, making women eligible for appointment as notaries public, declaring charters and franchises revocable and authorizing building zones in cities; empowering coöperative corporations of

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North Dakota to adopt by-laws limiting the voting power of their stockholders; authorizing the lease or sale of a certain portion of the Erie Canal in Utica, New York; and the deposit of public funds in California. The following amendments were proposed and rejected: Excess condemnation in California; increasing the salaries of state officers in Michigan and South Dakota; exempting the stockholders of limited corporations from the liabilities imposed by the constitution on stockholders in other corporations; eliminating coöperative associations of Idaho from the provisions of the section of the constitution relating to the election of managers or directors; and authorizing counties and municipalities of Idaho to become stockholders in and give financial aid to fair associations not organized for pecuniary profit.

The following amendments have been proposed and are now pending: Creating a pardon board in Arkansas; authorizing witnesses who reside outside the state of Texas to submit evidence in antitrust cases by deposition; empowering the legislature of Pennsylvania to provide by general law for the incorporation of banks and trust companies; placing certain restrictions on the appropriation of public money in Pennsylvania; prohibiting the increase of compensation or length of term of any elective or appointive official in Indiana; extending the terms of sheriffs in Maryland from two to four years; giving soldiers, sailors and marines preference in appointments in the civil service of New York; and authorizing cities of New York for the purpose of establishing a uniform system of streets to take real property within an abandoned street or highway and sell or lease the same.

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State Constitutional Amendments, 1917–18

STATE	SUBJECT	VOTE	
		In favor	Opposed
Arizona	Contract system in state works	13,297	11,658
	Legislature—Apportionment (Init.)	17,564	10,688
	Lands—Limitation in sale (Init.)	14,379	11,179
	School lands—Sale and lease (Init.)	16,372	10,867
	Workmen's Compensation	12,873	27,177
Arkansas	Cities and towns—Issue of bonds (Init.)	25,059	24,191
	New constitution	23,820	37,184
	Pardon board—Creation	Pending	
	Rural credits	22,741	27,571
	Supreme court—Increase—Divisions	20,721	28,888
California	Budget—State budget board	96,820	261,311
	Cities—Alteration of borough government	179,627	171,735
	Cities—City and county government	195,998	183,610
	Cities—Debt of city of Venice	188,349	167,647
	Cities—Funds of Los Angeles county	183,994	178,970
	Corporations—Liabilities of stockholders	178,355	196,948
	Courts—District courts of appeal	188,243	169,803
	Courts—Judiciary system	86,132	274,231
	Dentistry[d]	*200,475*	*314,373*
	Elections—Absent-voting	189,845	252,387
	Eminent domain—Rights of way	212,011	179,976
	Excess condemnation	138,131	228,324
	Health and Disability Insurance	133,858	358,324
	Liquor Regulation[d]	*236,778*	*341,897*
	Prohibition[d]	*275,643*	*306,488*
	Public funds—Deposit	239,203	180,856
	School tax—Limitation[d]	*167,049*	*227,943*
	Taxation—Exemption of cemeteries	170,296	302,325
	Taxation—Exemption of Y. M. C. A. and Y. W. C. A.	166,486	290,573
	Taxation—Limitation[d]	*127,634*	*259,626*
	Taxation—Reimbursing cities for tax losses by exemptions	115,727	262,421

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State Constitutional Amendments, 1917–18—Continued

STATE	SUBJECT	VOTE	
		In favor	Opposed
California..... (continued)	Taxation—Single tax on land values (Init.)	118,088	360,334
	University—Board of regents	249,886	148,305
	Usury Law[d]	*231,117*	*212,207*
	Workmen's Compensation and State Fund	229,974	224,517
Colorado.....	Initiated, referred and constitutional measures—Publication	98,715	12,237
	Civil Service—Merit System (Init.)	75,301	41,287
	Legislative Bills—Introduction limited to first 15 days of session	67,693	19,901
Connecticut....	State prohibition	Pending	
	Woman suffrage	Pending	
Delaware.....	Courts—County Orphans' court	Pending	
	Judges' compensation	Pending	
	Legislators—Increase in per diem	Pending	
	Removal of public officers	Pending	
Florida.....	Schools—Increase of school tax levy	21,895	10,723
	State prohibition	21,851	13,609
Georgia.....	Counties—creating Atkinson Co.	25,182	10,124
	Counties—creating Cook County	25,959	9,513
	Counties—creating Treutlen Co.	25,505	9,995
	Courts—Art. VI, Sec. 1	22,242	8,696
	Courts—Additional compensation	24,679	10,792
	Courts—Salaries	26,487	8,353
	Debt of political subdivisions	27,684	8,240
	Legislature—New senatorial districts	25,278	10,484
	Legislature—Representation of new counties	28,745	6,971
	Legislature—Increase of pay	24,929	10,862
	Officers—Salary of state treasurer	27,271	8,296
	Pension qualifications	29,047	7,907
	Pensions	27,753	8,416
	Taxation—Exemption of college endowments	29,731	8,068

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State Constitutional Amendments, 1917–18—Continued

STATE	SUBJECT	VOTE	
		In favor	Opposed
Idaho	Constitutional convention—Referendum	16,442	36,351
	Corporations—Coöperative association	12,674	28,321
	Debt—Limitation of state debt to 1%	18,027	26,856
	Fairs—Financial aid	17,472	30,387
	Schools—Abolition of office of state superintendent	22,147	28,268
	Supreme Court—Special judges in case of disqualification of member	Pending	
Illinois	Constitutional convention	562,012	162,206
	Banking Law—Amendments[d]	*408,458*	*83,704*
	State Roads[d]	*661,815*	*154,396*
Indiana	Public officers—Prohibits increase of salary or term during term	Pending[a]	
	Woman suffrage	Pending[a]	
Iowa	State prohibition (1917)	214,639	215,625
	Woman suffrage	Pending	
Louisiana	Courts—City of New Orleans	21,242	5,915
	Courts—Qualifications	20,712	5,265
	Courts—Retirement of judges	21,165	6,385
	Courts—Juvenile Courts	20,460	5,373
	Int. improvements—Miss. River bridge or tunnel	24,031	4,806
	Int. improvements—Canals and electric plants	23,354	4,695
	Int. improvements—State highways	23,013	5,367
	Schools—State institutions	25,416	5,235
	Taxation—Exemptions poll tax	27,606	4,588
	Taxation—Limit on state and local	29,103	4,996
	Taxation—Local tax for schools	26,873	5,634
	Taxation—State tax for schools	28,248	5,585
	Taxation—Tax for state schools	26,074	5,585
	Woman suffrage	19,573	23,077

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State Constitutional Amendments, 1917–18—Continued

STATE	SUBJECT	VOTE	
		In favor	Opposed
Kansas.....	Suffrage—Restricted to citizens	238,453	91,617
	Taxation—Educational institutions	234,858	101,569
	Woman suffrage	238,453	91,617
Kentucky.....	Telephones—Purchase or lease of parallel competing exchanges (1917)	49,986	30,192
	State prohibition	Pending	
Maine (1917)...	Elections—Polling districts	22,588	24,593
	Legislature—Apportionment	22,013	21,719
	Militia—Appointment of officers	20,585	23,912
	Removal of sheriff	29,584	25,416
	Woman suffrage	20,604	38,838
Maryland.....	Budget—Executive plan for state	Adopted	
	Elections—Absent-voting	81,494	19,099
	Sheriff—Extending term	Pending	
Massachusetts .	Appropriations—No sectarian ('17)	206,329	130,357
	Building zones	161,214	83,095
	Corporate Franchises—Revocation	160,833	79,787
	Elections—Absent-voting (1917)	231,905	76,709
	Elections—Biennial	142,868	108,588
	Elections—Compulsory voting	134,138	128,403
	Food supplies in time of war (1917)	261,119	51,826
	Governor—Amendments	164,499	76,972
	Governor—Military powers	155,114	84,822
	Governor—Succession	172,125	78,245
	Initiative and Referendum	170,646	162,103
	Judicial officers—retirement	156,796	86,023
	Legislature—Adjournments	147,104	100,552
	Legislature—Appointments	152,800	87,009
	Militia—Selection of officers	155,649	91,686
	Natural resources—Conservation	172,111	102,768
	Preservation of landmarks	183,265	81,933
	Regulation of advertising	193,925	84,127
	State administration	153,394	81,586
	State budget—Veto of items	155,738	81,302
	State loans and credit	153,972	90,233
	Women eligible as notaries public	153,315	105,591

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State Constitutional Amendments, 1917–18—Continued

STATE	SUBJECT	VOTE	
		In favor	Opposed
Michigan	Drainage districts—(1917)	198,918	139,027
	Elections—Absent-voting (1917)	216,270	114,594
	Elections—Separate ballots for questions (1918)	317,070	90,744
	Highways—State highways (1917)	209,559	126,871
	Railroads—State purchase and operation (1917)	242,969	100,722
	Salaries—State officers, increase (1917)	148,625	193,119
	State prohibition	Adopted April, 1919	
	Woman suffrage (1918)	229,790	195,291
Minnesota	State prohibition	189,547	173,615[b]
Mississippi	Governor—To lower age qualification	4,193	24,873
	Supreme Court—Increase in membership	Pending	
	Taxation—Classification	6,502	22,426
Missouri	Cities—Home rule charters (Init.)	95,197	280,839
	Cities—Debt for street improvements	88,246	286,886
	Homestead loan fund (Init.)	102,452	290,207
	School fund	93,392	289,269
	State prohibition	223,618	297,582
	Roads—District tax	94,142	287,488
	Roads—State tax	81,610	293,101
	Taxation—Limit in local districts	90,637	297,118
	Taxation—Land values, etc. (Init.)	80,725	373,220
Montana	Taxation—Exemption of mortgages	55,284	30,607
Nebraska	Constitutional convention	121,830	44,491
	Woman suffrage	55,284	30,607
Nevada	Courts	Pending	
New Mexico (1917)	Judicial districts—Created	16,822	22,036
	State prohibition	28,732	12,137
	Taxation—Limitation of tax rate	14,107	25,077

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State Constitutional Amendments, 1917–18—Continued

STATE	SUBJECT	VOTE	
		In favor	Opposed
New York.....	Canals—Lease or sale	722,235	310,992
	Children's and domestic relations courts	Pending	
	Cities—Limitation of indebtedness (1917)	591,728	420,303
	Cities—Limited home rule	Pending	
	Debt—Duration of loan	780,099	285,977
	Eminent domain—Streets	Pending	
	Highways—State forest highway	756,894	337,257
	Legislators—Increase in salary	Pending	
	Local and special laws—Legalizing issuance and sale of bonds	780,099	285,977
	Registration—Absent voters	Pending	
	Soldiers, etc.—Preference in civil service appointments	Pending	
	Suffrage—Educational qualifications	Pending	
	Taxation—Creation of real estate assessing districts	Pending	
	Woman suffrage (1917)	703,129	600,776
North Carolina.	Constitutional convention—Referendum.	Rejected	
	Schools—Increase of term	122,062	22,095
	Taxation—Exemption of mortgages, etc.	79,946	19,846
North Dakota .	Coöperative corporations—Voting power	49,392	32,053
	Hail insurance and taxation	52,475	30,257
	Hail insurance—Acreage tax (Init.)	49,878	31,586
	Initiative and referendum—(Init.)	47,447	32,598
	Initiative and referendum—(Init.)	46,329	33,572
	Internal improvements and industries (Init.)	46,830	32,574
	Judicial power—To declare laws unconstitutional 4 judges required	52,678	28,846
	Legislature—Emergency measures (Init.)	46,121	32,507
	Schools fund farm loans	Pending	
	Schools—Changing name	Pending	

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State Constitutional Amendments, 1917–18—Continued

STATE	SUBJECT	VOTE	
		In favor	Opposed
North Dakota.. (Continued)	State Debt—Extending limit (Init.)		
	Taxation—Exemption of personal property (Init.)	46,275	34,235
		46,833	33,921
	Taxation—Improvements on land	Pending	
	Woman suffrage; residence; etc.	Pending	
Ohio.....	Referendum—Amendments on U. S. Constitution (Init.)	508,282	315,030
	State prohibition (Init.) (1917)	522,590	523,727
	State prohibition (Init.) (1918)	463,654	437,895
	Taxation—To prevent double taxation	479,420	371,176
	Taxation—Classification	336,616[c]	304,399
	Woman suffrage (partial) (1917)[d]	*422,262*	*568,382*
Oklahoma.....	Woman suffrage	106,909	81,481
Oregon.....	*Children's Home (1918)*[d]	*43,441*	*65,299*
	Constitutional Amendments—No implied repeal (1917)	37,187	72,445
	Elections—Municipal (1917)	83,630	42,296
	Fisheries—Rogue River (1918)[d]	*45,511*	*50,221*
	Fisheries—Willamette River (1918)[d]	*55,555*	*40,908*
	Legal Notices—Compensation ('18)[d]	*50,073*	*41,816*
	Legislature—Limiting bills and increasing pay (1917)	22,276	103,238
	Port districts—Loans and tax (1917)	67,445	54,864
	Roads—Bond Issue (1918)[d]	*77,316*	*63,803*
	Schools—Normal schools (1918)	49,935	66,070
	Taxation—Classification (1917)	62,118	53,245
	Taxation—Increased levy (1918)[d]	*41,364*	*56,974*
	Taxation—Delinquent notice (1918)[d]	*66,652*	*41,594*
	Taxation—Penitentiary (1917)[d]	*46,666*	*86,165*
Pennsylvania...	Bank and trust companies—Incorporation	Pending	
	Debt—Increasing limit in municipalities	Adopted	
	Debt—Limit in municipalities	Pending	
	Highways—State bond issue of $50,000,000	Adopted	
	Public funds—Manner of appropriating	Pending	
	Taxation—Classified property tax	Pending	

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State Constitutional Amendments, 1917–18—Continued

STATE	SUBJECT	VOTE	
		In favor	Opposed
Rhode Island.....	Elections—Absent-voting	Pending	
South Carolina.	City debts (4 amendments)	Adopted	
	Legislature—Passage of bills	Adopted	
	Schools—Greenville county	Adopted	
	Special Assessments (4 amendments)	Adopted	
South Dakota..	Cement products—Manufacture by state	37,996	25,666
	Coal mining, etc., state to engage in	40,516	24,890
	Corporate enterprises—Authority of state to invest in	34,717	27,847
	Grain elevators, warehouses, markets, flouring mills and packing houses	40,536	25,505
	Hail insurance	41,069	25,846
	Internal improvements	34,717	27,847
	Salaries, state officers—Increase	26,716	42,710
	School lands—Conditions and terms of sale	46,686	21,759
	Supreme court—Special judges	41,540	34,706
	Taxation—Classification, income and occupation tax	50,857	25,010
	Water and hydro-electric power	41,539	24,396
	Woman suffrage	49,213	28,885
Tennessee.....	Constitutional convention	Defeated	
Texas.....	Conservation districts (1917)	43,571[e]	31,310
	Criminal cases—Rights of accused	Adopted	
	Free textbooks	Adopted	
Utah.....	State prohibition	42,691	15,780
	Taxation—Mine assessments	35,337	21,436
	Taxation—Exemption of homes, homesteads and personal property	38,669	12,880
Washington.....	Constitutional convention	55,148	58,713
West Virginia....	Budget—Executive plan for state	51,405	26,651

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State Constitutional Amendments, 1917–18—Concluded

STATE	SUBJECT	VOTE	
		In favor	Opposed
Wisconsin.....	Courts—Circuit judges	Pending	
	Legislature—Compensation	Pending	
Wyoming.....	Live stock inspection, protection and indemnity	22,011[f]	10,499
	Supreme court—Special judge	27,510	4,623
	State prohibition	31,439	10,200

[a] Withdrawn by legislature of 1919 and resubmitted.
[b] Failed for want of a majority vote.
[c] Held not adopted because of conflict with amendment on double taxation approved by a larger vote.
[d] Items in italics were legislative measures, not constitutional amendments.
[e] Incomplete.
[f] Failed, 22,170 votes necessary.

Judiciary Legislation. No striking changes in the state judiciary were made by any legislature in 1917 or 1918. Several minor experiments or extensions in the judicial system resulting from the ante-bellum period may be chronicled.

Jury. Expensive delays and even retrials are sometimes caused by the illness, death, or other temporary or permanent inability to serve of one or more jurors after trial has been begun. With an eye to prevent such impediments to the progress of cases, the state of Washington[1] has authorized the calling of one or two additional jurors, known as "alternate jurors," drawn from the same source, in the same manner, and of the same qualifications as the regular jury, at the discretion of the court in cases of felony where trial is likely to be protracted. The alternate jurors are to be sworn in and seated near the regular jury with equal power and facilities for seeing and hearing the proceedings, kept in confinement with the other jurors, and bound by the court's charge. Their attendance is compulsory at all times. Then, if in event of illness, death, or other disability, a juror is unable to continue to serve, the court may order one of the alternates drawn, to be substituted in his place, and the trial to proceed without inter-

[1] *Session Laws*, p. 185.

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ruption. Upon final submission of the case to the jury, the alternate jurors are discharged from further service.

Selection of Judges. Nebraska[2] is added to the list of states providing for the nonpartisan election of judges of higher rank—supreme court, district and county courts. These judges must be nominated at the primary election on a nonpartisan ballot, on which their names are to be placed by petition. This plan is similar to that in Ohio, except that the nonpartisan election of certain school officials is provided for and their names also included on the ballot.

The legislature of South Dakota, in 1917, proposed[3] an amendment permitting the supreme court, when one or more of its judges shall be disqualified, by reason of interest in a case or other cause, so to decide, and another person or persons selected as the legislature shall provide to serve in the place of the disqualified judge or judges in that particular case.

Conciliation Court. The legislature of Minnesota,[4] in 1917, created a court of conciliation and small debtors court, as a part of the Minneapolis municipal court. This judge ranks as a municipal judge, but is designated conciliation judge. His powers are the same as any of the other municipal judges and he is elected in the same way; when not occupied with his special duties, he is entitled to act as a regular municipal court judge.

In the conciliation court, no costs are to be levied on either side, except that actual disbursements of the prevailing side, as allowed on civil actions, may be included in the settlement. No fees for service of papers or otherwise are to be charged and no attorneys employed. Witnesses produced by either party may be heard by the court. Actions must not involve more than fifty dollars. Appeal fron the judge's decision may be carried to the regular municipal court. The object of this conciliation court is to settle as many small cases as possible by agreement without trial and thus to save both the parties and the city the trouble and expense of burdensome and unimportant litigation.

Domestic Relations Court. A court of domestic relations has been created for Lucas County, Ohio (Toledo).[5] The judge is to be elected

[2] 1917, *Session Laws*, p. 112.
[3] 1917, *Session Laws*, p. 209.
[4] 1917, *Session Laws*, p. 397.
[5] 1917, *Session Laws*, p. 732.

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by the electors of the country in 1920 and every six years thereafter. In the intervening period of three years, he is to be selected by the judge of common pleas and the probate judge from among their number. The court is to supersede the juvenile court with enlarged powers, including divorce and the custody of children, juvenile delinquency, bastardy, and child labor, with specific provision that any other court finding that a case is within the jurisdiction of the domestic relations court, shall immediately transfer the case to that court.

Children's Courts. An amendment[6] to the New York state constitution in 1917 empowers the legislature to establish children's courts and courts of domestic relations either in separate courts or as parts of existing courts. To these courts may be given jurisdiction over juvenile delinquency, desertion or nonsupport of wife and family, except in cases involving a felony.

In amending the city charter of Buffalo,[7] a provision has been added to exclude the general public from attendance at trials in the children's court and the public inspection of its records indiscriminately. The record of each case to be open for inspection only to the parents, guardian, or attorney of the child involved. Further, all trials involving children are to be held by the judge without jury.

In 1918 a children's court was established in Chatauqua County[8] as a separate part of the county court, giving original and exclusive jurisdiction in cases involving children under sixteen years of age, covering juvenile delinquency and child custody. The jurisdiction of this court once obtained will continue during the minority of the child. This act is similar to the jurisdiction for the children's court in the Buffalo city charter.

The powers of the municipal court of Philadelphia, which has exclusive jurisdiction in juvenile cases, were enlarged[9] in 1917 to cover proceedings in cases of desertion or nonsupport of children by the mother or grandparents and of child defectives; and all cases of desertion and nonsupport pending are transferred to it.

South Carolina[10] has enlarged the jurisdiction of the recorder's court, in cities over 50,000 in population, to include juvenile cases (children under eighteen).

[6] 1917, *Session Laws*, v. 3, p. 2793.
[7] New York: 1917, *Session Laws*, v. 2, p. 1629.
[8] New York: 1918, *Session Laws*, p. 1457.
[9] Pennsylvania: 1917, *Session Laws*, p. 1018.
[10] 1917, *Session Laws*, p. 132.

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Women Probation Officers. Specific provision is made by amendment to the Revised Code of 1913 of Nebraska[11] relative to juvenile courts, for the appointment of two women, instead of one, out of the three assistant probation officers in counties of over 100,000 inhabitants.

Delaware in 1917[12] created the office of paid assistant probation officer, making it mandatory that appointees be women.

HARRY A. RIDER.

Indianapolis, Indiana.

[11] 1917, *Session Laws*, p. 89.
[12] 1917, *Session Laws*, p. 829.

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JUDICIAL DECISIONS ON PUBLIC LAW

ROBERT EUGENE CUSHMAN

University of Illinois

Espionage Act—Freedom of Speech. Schenck v. United States (U. S. Supreme Court, March 3, 1919, 39 Sup. Ct. Rep. 247). The defendant in this case was convicted of violation of the Espionage Act of July 15, 1917. He had conspired to have printed and circulated a document tending to cause insubordination in the army and navy of the United States and to obstruct recruiting. He set up the invalidity of the act as a violation of the constitutional provisions guaranteeing freedom of speech and of the press. After a somewhat extended examination of the evidence in the case, the court disposed of the constitutional question by pointing out that while the things which the defendant had said and printed might in times of peace have been permissible, the existence of a state of war naturally operated to limit the scope of freedom of speech. "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from an injunction against uttering words that may have all the effect of force. The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a present danger that will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no court could regard them as protected by any constitutional right."

Impairment of Obligation of Contracts—Hiring Out of Convicts. Jones Hollow Ware Co. v. Crane (Maryland, March 5, 1919, 106 Atl. 274). In November, 1915, the directors of the state penitentiary of Maryland entered into a contract with the plaintiff to run for five years, providing for the hiring at a stipulated rate per day of 240 convicts. In 1916, a law was passed abolishing the directors of the penitentiary

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and substituting a state board of prison control. In 1918 this board was definitely authorized by statute to put an end to the contract system of prison labor. This they proceeded to do. Their action was attacked by the plaintiff on the ground that the statute authorizing it was a law impairing the obligation of the contract above mentioned. The court held the law constitutional. After an exhaustive review of authorities, it concluded that contract rights can never stand in the way of the legitimate exercise of the police power of the state. The law in question, relating to the circumstances under which state convicts shall be maintained and employed, bears a direct relation to the public welfare, safety and morals. Consequently, the state retains at all times full authority to make such regulations as those in question, irrespective of previous contracts.

Involuntary Servitude—Compulsory Labor During War—Constitutionality. State v. McClure (Delaware, January 7, 1919, 105 Atl. 712). A Delaware statute of 1918 made it the duty of every male resident of that state between the ages of 18 and 55 years who was not in the national army or was not a public officer to be employed in a useful and lawful occupation during the period of the war and for six months thereafter. The defendant was convicted of the violation of this act. He alleged that the act was unconstitutional as a violation of the thirteenth amendment, since it subjected him to involuntary servitude and also amounted to a deprivation of liberty without due process of the law. The court held the act to be a valid exercise of legislative power. In the absence of any express or implied prohibition in the Constitution of the United States, it is the privilege of every state in the Union to pass such laws as may be of aid to the United States in the prosecution of war. It was held that there was no merit in the contention that the act violated the thirteenth amendment. It required the performance of service necessary to the national welfare. The purpose of the act was to aid in winning the war by securing the production of needed supplies and by saving the loss incident to the maintenance of those who do not work. In view of the decreased efficiency of police protection by reason of war, a statute which tends to decrease vagrancy and idleness may be justified as a legitimate exercise of the police power of the state.

Labor Unions—Peaceful Picketing as Private Nuisance. Moore v. Cooks', Waiters' & Waitresses' Union No. 402 (California, District

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Court of Appeal, January 30, 1919, 179 Pac. 417). The defendants in this case had picketed the plaintiff's place of business during the course of a strike called for the purpose of compelling the plaintiff to recognize the defendants' union. According to admitted facts, the persons who had conducted the picketing had done so peacefully. They had at first worn badges marked "Picket," but later had worn merely a white ribbon. They had, however, informed prospective patrons of the plaintiff's restaurant that the place was being picketed because of the plaintiff's hostility to organized labor. Only one patrol was put on duty at a time. There was no evidence of disorder. The court in this case accepted the view taken in several jurisdictions (see Atchinson v. Gee, 139 Fed. 582) that there can be no such thing as peaceful picketing. The court sets forth its opinion upon this point in no uncertain language: "Ours is not a government of liberty under license, but under law. We have the right to do as we please only so long and so far as our so doing does not interfere with the rights of others. When we level up the ravines of low impulses, humble the mountains of pride, straighten the crooked places of deceit, and smooth the rough places of anger and malice and all uncharitableness, it will become so obvious that the conceded acts of defendants were an illegal interference of plaintiff's rights, that it needs no argument to convince any God-fearing, liberty-loving, home-defending, and humanity-helping individual in this enlightened day of that fact. Such conduct, as disclosed by the record here, we think not only constituted an illegal interference with plaintiff's rights, but became, and was, as to them, a private nuisance."

Naturalization—Cancelation of Certificate of Citizenship. United States v. Swelgin (U. S. District Court, May 22, 1918, 254 Fed. 884). This was an action to set aside the certificate of citizenship of the defendant. He was naturalized on May 27, 1913. He has been a member of the organization known as the Industrial Workers of the World since 1911. He admitted in court that he fully indorsed all the tenets and principles of that organization. After setting forth at some length excerpts from the constitution of this organization and other literature promulgated by it, the court concludes: "No one can read these pamphlets and pronunciamento of the order without concluding by fair and impartial deduction that it is not only ultra socialistic but anarchistic. It is really opposed to all forms of government. It advocates lawlessness, and constructs its own morals, which are not in

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accord with those of well-ordered society. . . . I am unable to understand by what right such of them as come from another country can claim that they are entitled to be admitted to citizenship under the Stars and Stripes. The very oath they take, avowing their allegiance to this government, is to them a worthless ceremony. . . . When, therefore, the defendant declared that he was attached to the principles of the Constitution of the United States, and was well disposed to the good order and happiness of the same, he made avowal of that which was not in his heart, and thereby deceived the court. And, further, he was a disbeliever in and opposed to organized government, and he fraudulently misled the court as to that." The court accordingly canceled the certificate.

Officers—Termination of Office. State v. Jefferis (Wyoming, March 7, 1919, 178 Pac. 909). The relator in this case was elected district judge in the state of Wyoming in November, 1916, for a term of six years. Between September 23 and December 6, 1918, he was in active service in the United States army as a major in the department of the judge advocate general. He resigned from the army on December 6, 1918, and resumed his judicial duties on December 9. This is an action for a writ of mandamus to compel the state auditor to pay the relator his salary as district judge for the period from December 9 to December 31, 1918. The payment of the salary had been refused on the ground that the relator had automatically vacated his office upon engaging in service in the United States army, and that it was not within his power to resume that office after the termination of his military service. In support of this view, the clause of the state constitution was relied upon which forbids any officer of the federal government from holding a state office. The court, however, held that the mandamus must issue. Without minimizing the importance of the constitutional provision just mentioned, the court called attention to another section of the same constitution, declaring that every person holding civil office under the state shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified. There was no evidence that the relator had resigned the office. Even if his entering military service could otherwise have been regarded as a resignation there was no evidence that the proper authorities so regarded it or acted upon it. No successor was appointed. It is well established in common law that a duly elected officer cannot resign his office without the consent of those under whose authority

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he holds it. If he cannot do this directly, he cannot do it indirectly by the acceptance of another office incompatible with the first. Consequently, the office in question was never vacated, and the relator is entitled to his salary.

Police Power—Constitutionality of Cold Storage Act. Nolan v. Jones (Pennsylvania, January 4, 1919, 106 Atl. 235). This case involves the question of the validity of a section of the Pennsylvania Cold Storage Act of 1913, making it a penal offense to sell or offer for sale any butter which has been held in cold storage for a longer period than nine months. The plaintiff urged that this law was an impairment of his constitutional rights since it deprived him of property without due process of law and denied him the equal protection of the law. The court sustained the law as a valid exercise of the police power of the state. It prefaced its argument by the statement that there was an initial presumption in favor of the validity of the law, and that legislative discretion in matters affecting the public health must of necessity be wide. It declared it to be a matter of common knowledge that food products deteriorated and decayed even when held in cold storage, and therefore it is impossible to say that the act in question is unnecessary as a protection to the public health. The act is not void as being special legislation since all those who use food products in the state are alike affected by its provisions. Since it is a proper exercise of the police power, it cannot be held to contravene the due process of law clause of the fourteenth amendment.

Police Power—Forbidding Acceptance of Tips—Discrimination. Dunahoo v. Huber (Iowa, March 17, 1919, 171 N. W. 123). This case involves the validity of the Iowa anti-tipping statute of 1915, which forbade every employee of a hotel, restaurant, barber shop, or public service corporation engaged in the transportation of passengers to accept any gratuity or tip. The plaintiff was convicted of violation of this statute. The court held the act to be unconstitutional on the ground that it established an unreasonable classification. Without indicating what its view would have been if the law had created an absolute prohibition of tipping applicable to all persons, the court held that a statute which forbade employees to receive tips but did not forbid their employers from doing likewise denied to the former the equal protection of the law.

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Police Power—Penalizing Possession of Motor Vehicle from Which Manufacturer's Identification Mark Has Been Removed. People v. Fernow (Illinois, February 20, 1919, 122 N. E. 155). An Illinois statute of 1917 forbade under penalty the possession of any motor vehicle from which the manufacturer's identification number or mark has been removed or on which it has been defaced, covered, or destroyed for the purpose of concealing the identity of the vehicle. The plaintiff was convicted under this act of having removed the manufacturer's serial numbers from ten automobiles and having new ones put on. He attacked the constitutionality of the law on the ground of its being class legislation and an unwarranted exercise of police power of the state in violation of the fourteenth amendment. The court disposed of these objections and upheld the act. It pointed out that the automobile is frequently used as a means of committing crime, that the identification marks in question are useful in aiding in the detection of crime. Therefore the law is a reasonable exercise of the police power of the state. In the exercise of its police power it is proper for the state to make a specific act a crime or misdemeanor irrespective of the guilty knowledge or intent of the person who does it. The burden is thus placed on the individual of ascertaining at his peril whether or not his acts or omissions are within the law. The act is not void by reason of undue discrimination since other vehicles are not used, as are motor vehicles, in aiding of criminal practices, and there is not the same necessity for imposing a like restriction upon them.

Police Power—Regulation of Billboards. St. Louis Poster Advertising Co. v. City of St. Louis (U. S. Supreme Court, March 24, 1919, 39 Sup. Ct. Rep. 274). This case involves the constitutionality of an ordinance of the city of St. Louis passed in the year 1905. The ordinance provided that no billboard of more than 25 square feet should be put up without a permit; none should be erected more than 14 feet above the ground; each one should have an open space of 4 feet between the lower edge and the ground; none should be erected nearer than 6 feet to any building or to the side of the lot nor nearer than 15 feet to the street line. No billboard should exceed 400 square feet in area. The ordinance provided for a fee of one dollar for every 5 lineal feet of surface.

The plaintiff declared that its billboards were all built in such a way as to avoid all danger from fire or wind but in other respects they did not comply with the ordinance. The ordinance was attacked

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as a violation of the property rights of the plaintiff in contravention of the due process of law clause of the fourteenth amendment. The court upheld the validity of the ordinance. It declared that billboards may properly be put in a class by themselves and subjected to special restrictions or prohibited completely in residence districts in the interests of "safety, morality, health, and decency." The fact that billboards of the plaintiff were free from fire and wind danger is of no importance inasmuch as other more serious evils incident to them remain unremedied. The court stated that some of the details of the ordinance seemed to have been enacted for the purpose of protecting the aesthetic interests of the community, but inasmuch as the main provisions stand on other grounds, the court declared itself unwilling "to deny the validity of rudimentary wants that alone we generally recognize as necessary." Inasmuch as the ordinance is a reasonable exercise of the police power it is not important that contracts which the plaintiff has entered into for the use of its billboards are impaired by it.

Ratification of Amendment to Federal Constitution—Referendum. Herbring v. Brown (Oregon, April 29, 1919, 180 Pac. 328). Before its adjournment in February, 1919, the legislature of Oregon passed a joint resolution ratifying the national prohibition amendment. On March 18, the petitioner in this case filed a petition with the secretary of state, demanding a referendum upon this resolution in alleged accordance with the constitutional provisions relating to the initiative and referendum. When asked to do so, the attorney-general refused to provide a ballot title for the measure on the ground that it was not a measure which could be referred to the people. He based his action on two grounds: First, that the provision of Article V of the Constitution of the United States, relating to the ratification of amendments to that Constitution by state legislatures requires that the ratifying action shall be taken by the "Legislature," and that "Legislature" is synonymous with "Legislative Assembly." In the second place, the provision of the Oregon constitution relating to the referendum gives the people of the state the power to approve or reject any "act" of the legislature, and this joint resolution is not an "act." The court supported the view of the attorney-general. It did not discuss at all the first of the grounds upon which he based his action, but it accepted the view that the ratification resolution was not an "act" within the meaning of the provision of the state constitution dealing with the referendum. The court makes some effort to analyze the purpose of

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the framers of the Constitution in using the word "act" in this connection, and concludes that it was not their intention to break down the well-established distinction between a joint resolution and a duly enacted law. The court finds authority for this view in the case of Hopping v. Council of the City of Richmond (170 Cal. 605, 150 Pac. 977) which holds that the referendum provisions of the constitution of California are inapplicable to joint resolutions.

Sedition—Validity of State Statute Penalizing the Incitement of Hostility to National Government. State v. Tachin (New Jersey, February 25, 1919, 106 Atl. 145). A New Jersey statute of 1918 made it a criminal offense for any person by speech to incite or promote hostility to the United States government. It was admitted that the defendant in this case had made public statements to the effect that the European war was being carried on for the benefit of the capitalists, that the people do not need any government, and that people in the United States ought to arm themselves for protection against the tyranny of the national government. The defendant appealed from his conviction and set up the unconstitutionality of the act. He based his argument on two grounds: First, that the state has no authority to penalize an act which is directed against the United States alone. The court disposes of this contention by pointing out that there are many statutes passed by the states which penalize in similar fashion offenses against the United States government. The laws of the several states making the counterfeiting of United States money a crime furnish examples of this. But even assuming the validity of the defendant's argument it is impossible to escape the conclusion that the offense which is penalized is in a real sense an offense against the state as well as the nation. The safety and welfare of the individual states are intimately connected with the safety and welfare of the United States, and it is proper for the state to protect itself against these indirect attacks. If the act in question were in conflict with the provisions of the Espionage Act passed by Congress, it would, of course, be void. The court, however, finds no such inconsistency. The second argument of the defendant was that the act violated the constitutional right of free speech. The court points out in answer to this that while there is no prohibition against expressing hostility to the officers of the government in a proper way, the hostility forbidden in this act means such hostility or opposition as involves the subversion or destruction by force of the government. The constitutional right of free speech does not protect anyone in the expression of such views. This case

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may profitably be compared with the Minnesota case of State v. Holm (166 N. W. 181), in which the sedition act of that state was upheld.

Taxation—For Purposes Other Than Revenue—Congressional Suppression of Traffic in Narcotics. United States v. Doremus (U. S. Supreme Court, March 3, 1919, 39 Sup. Ct. Rep. 214). This case raises the question of the constitutionality of the Harrison Narcotic Act of 1914. The first section of the act requires all dealers in narcotics to register with the collector of internal revenue and to pay a tax. The second section prohibits the sale or barter of the drugs except upon the written order of the person to whom they are sold, made upon blanks furnished by the commissioner of internal revenue. The court below had held the act invalid on the ground: first, that it was not a revenue measure; and second, that it was an invasion of the reserved police power of the states. The court in this case declared the act valid. In the first place, the only limitation upon the power of Congress to impose an excise tax is that of geographical uniformity. The court goes on to say: "Of course Congress may not in the exercise of federal power exert authority wholly reserved to the states. Many decisions of this court have so declared. And from an early day the court has held that the fact that other motives may impel the exercise of federal taxing power does not authorize the courts to inquire into that subject. If the legislation enacted has some reasonable relation to the exercise of the taxing authority conferred by the Constitution, it cannot be invalidated because of the supposed motives which induced it." The act cannot be declared void because the same business may be regulated by the police power of the state, nor can it be invalidated because the effect of the law is to accomplish a purpose other than the raising of revenue. The court points out that the effect of the second section of the act is to keep the drug traffic open and above board and to diminish the opportunity of unauthorized persons to obtain narcotics and sell them without paying the tax imposed.

It is interesting to note that Chief Justice White and Justices McKenna, Van Devanter, and McReynolds dissented from the opinion of the majority. They took the position that the act was outside the jurisdiction of Congress by reason of its being an attempt to exert a power not delegated to Congress. This case throws some light upon the possible attitude of the Supreme Court toward the recently enacted excise tax upon the net profits of goods manufactured by establishments employing children.

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FOREIGN GOVERNMENTS AND POLITICS

EDITED BY FREDERIC A. OGG

University of Wisconsin

Observations on Soviet Government. Over a year and a half has passed since soviet government was declared in Russia. That is not a long period of time in the history of a great revolutionary movement. Developments which loom large during these years and which impress even thoughtful men and women may prove to be of little consequence in the final determination of things, while the still small voices which are often unheard and usually unheeded by contemporaries swell into the chorus of decisive opinion which settles the course of affairs. It is a matter for trepidation, therefore, when one ventures to search mid the political and institutional debris for the foundation stones upon which a new democracy is to rest, or to attempt to appraise the undried, rough-hewn timbers hastily thrown into the erection of a temporary political superstructure. Only the hope that the tentative observations of one who was there may assist others to interpret this titanic movement justifies the present note.

There were soviets in Russia before the Bolshevik uprising in November, 1917. Similar organizations had appeared during the course of the 1905 revolution. At first they took form in the ranks of organized labor. The laboring masses of Russia constituted the most fertile soil for revolutionary and socialistic propaganda. The laborer was usually of peasant origin. He had come to the city in search of better things. Perhaps he had been driven from the village by the increase of population or by the inequitable distribution of land. The conditions of industrial toil and life were so bad that exploitation such as no other white men now know was the common lot. Housing conditions that came under personal observation recall the worst descriptions from English and American industrial history.

To the industrial workers their council or soviet quickly became the symbol of their newly won political freedom and the assurance of social and economic reconstruction. It was a short step from distrust of the conservative revolutionary forces and the old political institutions with

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their bureaucratic machinery to the cry "All power to the soviets," an appeal emblazoned on thousands of banners and voiced by millions of toilers.

The councils of workmen, soldiers and peasants never lost sight of the basic fact that the revolution was social and economic. All of the social revolutionary groups came to regard the councils or soviets as the real defenders of the revolution. The establishment of soviets was therefore promoted with feverish haste during the early months of the revolution and was even fostered by Kerensky himself. Nor was this task particularly difficult except in its scope. In many places the councils had long been hidden in the recesses created by the necessity of evading the vigilance of the old régime. They took on a new life and strength at the first evidence of freedom from old restraints. The organization and development of some hundreds of soviets is one of the amazing feats of the first six months of the revolution. Between March and November, 1917, the institutional basis of state power in Russia was radically altered. Yet the substantial character of the soviet as the source of power has surprised its friends and confounded its enemies, domestic and foreign.

In the early months of the revolution many efforts were made by learned students to explain the essential democracy of local and provincial institutions such as the village mir and the zemstvo. Indeed they were cited as the evidence that Russia was and had been democratic in spirit even under Tsarism. They would be cornerstones in the new state edifice and would bear the strain of the transition from autocracy to democracy. How could tried, worthy, and venerable agencies such as these be ignored? Yet today neither the village mir nor the zemstvo offer hope for reconstruction. They do not even give evidence of life. In European Russia the zemstvos have been liquidated and in Siberia where they were never strong or indigenous, they have voluntarily sought to disappear. The mir has been supplanted largely by the soviet.

It may be too early to accept the fate of the mir and the zemstvo as final. Their present condition may be one of dormancy. But it would be folly to close one's mind to the fact that the great majority of Russians are quite willing to effect a rather complete break with the past. Although the zemstvo and the mir served important social and economic purposes prior to the revolution, they have not survived as organs for the important business now at hand.

In the case of the mir there are two views which seem tenable at the present time, and with the data that can now be obtained it is too early

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to decide between them. According to the first the soviet is substantially an outgrowth of the mir. It represents the natural and logical expansion of the mir when the latter was called upon to assume the larger governmental functions entailed by revolution and popular government. In favor of this view there is little data, but it is difficult otherwise to explain the sudden and overwhelming victory of the soviet in local affairs.

The other view and one which has considerable to substantiate it is that among large and important groups of the population there existed a positive distrust of the former agencies of government. This attitude was particularly characteristic of the industrial workers and the soldiers. The former in their reaction from industrial oppression demanded proletarian control of industry, and as there was no former organ of government devised for this purpose, the effort was made to adapt the soviet to industrial organization and administration, an undertaking which has thus far proved beyond its capacity. On the other hand, among the rural population the village mir had been performing certain communal functions for many generations. It is true, however, that its prerogatives had been increasingly subjected to official interference and there could be no confidence that it would be able to meet the new order. Moreover the returning soldiers had become familiar with the soviet as an effective instrument. Most of the men who were demobilized were peasants and quite naturally they took the soviet home with them. The village mir machinery was found inadequate to care for the problem of distributing the land, especially in cases of dispute between villagers. Intervillage warfare frequently arose and the adjustment of rival claims was beyond the mir. It was a task calling for imagination, courage, accommodation and new administrative machinery. Soviet authority and organization were welcome to the distracted yet peacefully disposed peasant. Moreover this authority not only effected the negotiations and made the adjustments incident to land distribution, but also gave assurance that it would permanently support the settlements effected. To the land hungry peasant and his family the soviet quickly supplanted the mir as an object of fealty and regard.

As for the zemstvo, it was from the first suspected of being an institution that was bourgeois both in its conception and management. It did not and could not command the confidence of the masses because it did not possess that of its own employees. It was early made the object of attack and its business operations in soviet Russia finally liquidated.

The foregoing explanations of the rise of the soviet and the fall of the

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mir and the zemstvo may prove to be inadequate in the light of more complete information. But in the main they harmonize with the fact that the Russian revolution is primarily a social and economic movement, and that political institutions can endure only if they give expression to the social and economic forces at work. Failure to recognize the true character of the revolution and efforts to restrain revolutionary developments within purely political lines have helped bring the Allies to their present unhappy relations with Russia and have contributed not a little to the present misfortunes of her people. The attentions of ill-advised and self-seeking friends and allies may be altogether as embarrassing to a people in disaster and distress as the blows of a known enemy.

From the first the soviet caught the fancy and devotion of the masses. In its simpler forms it is not unlike a mass meeting and in the earlier days its procedure was elastic and membership was open to all citizens within respective economic groups. Opportunity was offered for all voices that so desired to be heard, even though the time given was brief—two, three or five minutes—and the length of time given was the decision of the meeting, not the ruling of a committee or officer. Men spoke to men who would understand. The superior learning and prestige of the professional man or the stilted oratory of the politician, or the awesome presence of the man of affairs did not intrude. Brickmaker spoke to brickmaker, textile worker to textile worker, store clerk to store clerk. The repressed and pent up grievances, beliefs, aspirations of tens of thousands found expression in words. In company with men who lived as they lived, who knew and appreciated the common hopes, they chose delegates from among themselves who were to speak for them in the higher councils of the city and the nation. Moreover the verdict as to policy was never closed. It was always open to readjustment in accord with new and subsequent expressions of opinion. Delegates could be recalled at will.

From the very first the fluid form of the soviet constitution proved one of the sources of its strength. The tremendous momentum attained by the revolutionary current as it swept over and through the old levees of custom, destroying the institutional walls of centuries, tearing apart the social structure and wrecking its machinery, and cutting new channels through old barriers, was relieved only through the soviets. In them was reposed the confidence of the masses, so far as confidence remained in any organ of government. Whatever measure of deliberation, of restraint, of direction, characterized public affairs, scanty as these evidences

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of self-government often appeared to the observer, must be credited to the soviets. For without them Russia would have been plunged into the anarchy of despair. The new wine could not be contained in the old bottles. The soviet very often failed, but its successes were not inconspicuous.

One view into the workings of this newly found organ of the masses will throw light upon its widespread popularity. The room is one that is commodious and capable of seating four or five hundred people. It gives evidence of having seen better days. Probably it has been requisitioned for its present use. At one end is a platform with a few chairs on it. Individual chairs are massed in the center, and there is plenty of standing room at the sides of the hall and at the rear. The meeting begins about seven-thirty and the hall is well filled ahead of time, sometimes crowded. Voting is done by acclamation. A chairman is selected, unless one has previously been selected and has time yet to serve. The country is wanting peace, bread and land. These men, in particular, desire peace and bread. The discussion covers many subjects, but the peace discussions at Brest-Litovsk are getting a hearing. Germany is showing her teeth, and the vision of a peace without annexations and without indemnities is not so bright as it had been. Yet the land must have peace. Without it there can be no bread. Even their beloved revolution may be lost. Many speakers are heard, most of them favoring peace even on the harshest terms laid down by the enemy. All of the speeches are expressions of opinion by common folk. Eloquence of surpassing quality breaks forth from the most unlooked for sources. One listens to a rough moujik, a common soldier who had been two years at the front, and had been decorated for bravery. Hear the wonderful description with which he introduces himself: "I come from a place where men dig their own graves and call them trenches," and then followed a burst of impassioned speech, telling of hardship, want, treachery and slaughter. It closed with a demand from the soldiers that the government seek peace. No government could long endure which neglected that demand. The soviet was the channel through which that demand was voiced and made effective.

The soviet was seriously handicapped because of failure to appreciate its constitution and the limitations thereby imposed. Such appreciation was almost equally lacking in its friends and in its foes. Legislative, executive, and judicial functions frequently have been confused. Relations with superior soviet authorities have been in-

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sufficiently defined or have been ignored. "All power to the soviets" has too frequently been taken seriously by local bodies. Small wonder that confusion and mistakes and perversions have occurred—with what frequency and serious consequences only the future historian can reveal.

Despite these conditions the soviets have shown remarkable tenacity, capacity for adjustment, and adaptability. In the first place, they have made the masses feel themselves politically effective. The fact that this effectiveness has come about through a virtual abdication of certain normal prerogatives does not substantially alter the case. The abdication has the merit of being largely voluntary. The party in power had the advantages of definite objectives, cohesive organization, and capable and acknowledged leadership. Having captured the government it has operated it without regard to its own or its opponents theories. The necessity of carrying out the party program has determined the means. The position and power of the chief commissar in Russia has been actually as strong as that of an American president during war, perhaps stronger. His commands are effective wherever the arm of the soviet extends. The word of the Tsar was never more authoritative. For the moment the party in power may even resort to the suppression of minorities in the soviet—but there is no reason to believe such suppression has been serious enough to menace the existence or popularity of the institution.

There is far more smoke than fire in the protests over the suppression of the constituent assembly and the exclusion of the bourgeois elements from the soviets. Ninety-three per cent of the Russian people have something at stake in the success of the soviet form of government. Under the old régime they had practically nothing. To such people the fine points of the law, their own convenience, and perhaps their new found rights are temporarily unimportant if counter-revolution appears to menace the one institution in which they have confidence and which they believe they can ultimately control. They can endure much. They are accustomed to it. And they are wasting little time or thought over the misery and wailings of their former oppressors. Despite executive usurpation, legislative perversion, and the substitution of inquisition and terrorism for judicial procedure, the soviet has continued in the affections of the masses.

On the other hand the weaknesses of soviet government have been overshadowed by its importance as the defender of the revolution. There has been no quarter given in the battle between socialism and

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capitalism. Wanton violations of soviet principles have been serious. In order to gain time and the appearence of unity, the ruthless suppression of minorities and every immorality known to statecraft has been employed. On reflection one is reminded, however, that new principles in government are seldom established by tea party methods unless they are of the Boston type. The radical nature of the revolutionary objectives has made the struggle a desperate one. For the soviet to be subordinated to the ends of the party in power is only what one might expect. Constitutional tradition is not old in Russia. The peril of foreign war and intervention has not contributed strength to the forces of tolerance and moderation.

It is important to distinguish between the soviet as an institution of government and the political party which is temporarily in power. In principle the soviet admits of more than one political party, recognizes the probability of party struggle for its organization and control, and finds its own effectiveness and development chiefly under party direction. For the present the Bolshevik party may dominate the soviet, may pervert it as parties often do with political institutions, and may even seek to direct and determine its constitution and development. Nevertheless the soviet is very far from being a strictly Bolshevik preserve, and it is because it is difficult of control that the Bolsheviks have resorted to desperate measures to continue their supremacy. It is not improbable that the Bolshevik party has greater reason to fear its removal from power through the soviets than through outside agencies. The soviet offers such immediate, effective and constant opportunity for party change that no party which lacks a program, cohesive organization, a reasonable degree of popular support, and experienced, skilled and farsighted leadership can hope long to control it. There is and can be no assured tenure of party control so long as the soviet as an institution continues to function.

Reduced to its simplest terms the soviet is an institution which seeks to promote government of workers, by workers, and for workers. Workers include all who toil. Work is declared a universal duty through the adoption of the motto: "He shall not eat who does not work." A serious attempt is made to reduce the undue premium which capitalism has placed upon brains or capital in contrast with brawn. The soviet state seeks to relate government, including all the major activities, to the individual on the basis of his position in society as an economic unit. Politics becomes business and business becomes politics. Soviet government is the recognized agent for the direction and the development of coöperative and communistic activity.

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Many technical criticisms of the soviet constitution are possible. Some of its defects seem fatal: the diffusion and decentralization of power among the many component parts of the state; the absence of approximate boundaries between the central and local organs of government; the apparently impossible position of the executive mid extraordinary responsibilities for the social welfare; the council of people's commissars, the colleges of the people's commissariats, the ever present Central Executive Committee, the semi-annual All-Russian Congress, and the ever impending recall; the emasculation of all legislative stability through the constant power of recall vested in all local and provincial soviets over their delegates; and the calculated disfranchisement of rural workers in favor of industrial toilers. In addition, merely passable operation under the soviet constitution would require the development of party organization and discipline to a degree where the real power of the party could over-ride the constitution at will. The present party in power in Russia is charged with doing this very thing.

There are many more defects that might be mentioned, but it is too early for critical analysis. The real test of soviet government will be whether or not it works. Manifestly its constitution has not assumed final form. The instrument which has been promulgated is more of a propaganda document than a national constitution. It is the child of necessity, growing from the suppression of the constituent assembly and the desire and the demand for constitutional sanction of soviet conduct. The constitution may therefore be considered as a more or less idealized picture of soviet government at the moment it was issued, but it cannot be assumed to be a true picture of soviet government then or now, or of the stabilized soviet constitution, assuming that the institution will survive the revolution.

R. M. STORY.[1]

University of Illinois.

[1] Y. M. C. A. representative in Russia and Siberia during 1917 and 1918.

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NOTES ON INTERNATIONAL AFFAIRS

BY CHARLES G. FENWICK

Bryn Mawr College

The Peace Treaty with Germany. The distinguishing feature of the great peace treaty now pending ratification is that it has been framed with the conscious effort, not merely to secure redress as far as possible for wrong done, but to carry into effect certain principles which, prior to the conclusion of the treaty, had been laid down as the basis of a new international system designed to prevent wars in the future. The treaty involves, therefore, something more than a mere settlement of the issues raised by the war, or rather it involves an attempt to settle those issues in such a way that the state of peace resulting from the treaty not only should be "a just peace," but should be "a lasting peace" as well. The terms of reparation and of security, the readjustment of boundary lines, the creation of new states, the colonial settlements, and the provisions for the economic and social betterment of the nations involved, must be considered in their double aspect both as abstract measures of justice, designed to remedy wrong as such, and as political expedients intended to create new international relations of a more stable character. How far the objects consciously sought by the treaty give promise of being attained by the provisions actually adopted is at the moment a sharply debated issue; and it is important in the discussion of that issue to distinguish carefully between the problem of present justice and the problem of future reorganization.

The dominance of the ideal of "a lasting peace" as distinguished from a peace dictated by the victors to a defeated enemy is due in large part to the fact that the magnitude of the war and the long months during which the opposing forces were at stalemate drew the attention of thinking men in all countries, belligerent and neutral alike, to the urgent necessity of effecting a settlement by other means than a military decision. In particular, the greatest of the nations still remaining neutral after two years of war was led to assume the rôle of mediator, and to attempt to obtain from the opposing nations a statement of the

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principles upon which a peace by settlement might be brought about. On December 18, 1916, President Wilson addressed a note to all the belligerent nations calling upon them for a definite statement of the aims for which they were fighting. The reply of the Entente Allies contained a renewal of the general principle of "reparation and securities" earlier enunciated by Mr. Asquith, as well as more definite conditions of territorial rearrangements. On January 22, 1917, President Wilson laid down before the senate the conditions under which he considered it possible for the United States to coöperate with other nations in establishing an international authority to guarantee peace. These conditions were stated in part as abstract principles of democracy and the equality of rights of great and small nations alike, and in part as a program of freeing nationalities from alien rule and removing restrictions from international commerce.

A year later, on January 8, 1918, when the United States was itself a belligerent, President Wilson again undertook to lay down the conditions of a just peace, and the "fourteen points" then set forth became thereafter the definite program of America's conception of the proper terms upon which a settlement should be based. These "fourteen points," supplemented by principles enunciated in subsequent addresses, particularly that of September 27, 1918, were accepted by Germany on October 6 as the basis of an armistice and peace negotiations, and with two exceptions were likewise accepted by the allied governments. They thus acquired a sort of contractual character, and the allied and associated governments became obligated to that extent to construct the peace treaty upon them as a foundation. How far it has been possible to adhere to them, and the causes which have made it necessary to substitute other arrangements not in accordance with them, will appear in the discussion of the specific clauses of the treaty.

The most significant feature of the treaty, apart from the substance of its provisions, is the fact that the terms of the settlement are intimately bound up with the creation of the League of Nations. Part I of the treaty contains the covenant of the league, and being thus established the league is not only made the general guarantor of the treaties as a whole, but through a variety of commissions is made the active administrator of a number of specific provisions in the treaties. Sharp criticism has been directed against this combination of what are regarded by many as two distinct objects. A resolution signed by thirty-seven senators on March 3 during the progress of the drafting

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of the treaty with Germany called upon President Wilson to postpone the formation of the League of Nations until the conclusion of the peace treaty; and a resolution has been proposed in the senate providing that the covenant of the league be separated from the rest of the treaty. This desire for the separate consideration of the two problems comes not only from those who are opposed to the league in any form, at least in any practicable form, but from those who feel that the league as at present constituted cannot accomplish the objects for which it is intended.

On behalf of the decision to make the league and the conditions of peace mutually interdependent, it is urged that certain questions bearing upon international reconstruction could only be settled rightly under the guardianship of the league. Moreover, unless it was assumed that the old order of international rivalry and individual self-protection had passed away, it would be necessary to make concessions of strategic territory which would violate the principles of self-determination upon which the governments had pledged themselves to reconstruct the map of Europe. At the same time certain provisions of an executory character which might require years for their fulfillment, and certain other constructive provisions which were to be continuous in their operation, required the creation of permanent commissions to see to their fulfillment. It was thought that the supervision of the work of these commissions by the league would do much to make it easier for the parties to the treaty to acquiesce in decisions which they might otherwise feel would work to their disadvantage. Moreover, it was felt that rivalries would inevitably be created by the assignment of the colonies of Germany to mandatory states unless provision were made that the mandatory state should exercise its duties of guardianship subject to the control of the league.

As against these considerations it is urged first that the mutual interdependence of the league and the peace provisions makes it practically impossible for the senate to exercise its constitutional function of advising and consenting to the making of treaties. Even with regard to the peace provisions it is clearly impossible for the senate to offer any serious amendments when such amendments would have to be concurred in by so large a body of contracting powers. The situation becomes acute when it is a question of enforcing upon the senate the ratification of an agreement so important and so full of political complexities as is the covenant of the League of Nations. While it is true that the negotiation of treaties has been by custom a

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matter for executive action alone, at the same time it has always been possible for the senate in the case of treaties with a single nation to offer amendments without serious delay; and in the case of general conventions, such as those entered into at the Hague in 1907, it has been possible to make reservations on objectionable points. In the second place, when the details of the peace provisions became known to the public, many who believed in the ideal of a League of Nations, and who were ready to accept as a temporary compromise the original draft of February 14 and the amendments subsequently introduced, felt that certain items among the peace provisions, which appeared inconsistent with the principles to which the league stood committed, prejudiced the league from the start and rendered impossible the attainment of its purposes; for the peace provisions, following upon the creation of the league in Part I of the treaty, constituted as it were an example of what might be expected from the league, and, what was far more serious, represented the *status quo* which it appeared that the league, by Article X of its covenant, was pledged to maintain. It was one thing for the United States to depart from its traditional policy of avoiding entangling alliances with European powers where the interests of justice and world peace were clearly involved, and quite another thing for the United States to pledge its economic policies and possibly its military forces to maintain a settlement which gave promise of being as unstable as the great peace treaties of the past.

Reparation Provisions. For the purpose of critical analysis of the treaty with Germany we may depart from the order followed by the several sections of the treaty, and divide its provisions into those which bear upon the problems of reparation and securities, and those which are of a constructive character and are designed to lay the basis of a new international order.

Beginning with the provisions for reparation, Germany was required by the first draft of the treaty to pay within two years twenty billion marks in either gold, ships, or other specific forms of payment, and to repay to Belgium all sums borrowed by the latter from the Allies in consequence of the violation by Germany of the neutrality treaty of 1839. In addition, an interallied reparation commission was created to determine the total amount which Germany should pay and to fix a schedule of payments running through a period of thirty years. The counter-proposals of the German delegates submitted on May 29

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offered to pay a maximum sum of one hundred billion marks, twenty billion to be paid by May 1, 1926, and the balance in annual installments without interest. This offer was not accepted, but it was agreed that the reparation commission should finish its work of determining the total amount within four months instead of the original limit of two years. The commission is also authorized to fix a definite sum to be paid instead of the indefinite compensation demanded in the original draft. The reparation commission will act as a sort of board of receivers for the German nation, and will see that priority is given to the claims of the creditors over the discharge of domestic loans.

The question has been sharply discussed whether the bill of damages constitutes the levy of an indemnity as distinct from reparation for losses suffered. "No annexations and no punitive indemnities" was a principle frequently proclaimed as essential to a stable peace. As the "fourteen points" contained no other reference to reparation than that the occupied territory of Belgium and France should be "restored," the allied governments submitted a memorandum during the armistice negotiations to the effect that by the above provision they understood that compensation would be made by Germany "for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air." The treaty sums up these damages under seven main categories, the fourth of which, covering damages represented by pensions and separation allowances capitalized at the signature of the treaty, has been criticized as an attempt to make the "damages" cover part of the "cost of the war." But even admitting the latter item as properly included under "reparation," the bill is such a heavy one that the German government, in the covering note attached to its counter-proposals, regarded it, considering the greatly diminished resources of the country, as reducing Germany to virtual wage-slavery.

It is an old and well-recognized rule of international law which makes a people responsible for the acts of their government, even when that government is as little subject to the control of the people as was the executive branch of the German government in 1914. But though legal the rule is not under all circumstances a moral one, and distinctions in respect to guilt between the German people and their rulers were frequently made during the course of the war. In his address to Congress on April 2, 1917, asking that war be declared, President Wilson asserted that "we have no quarrel with the German people. We have no feeling towards them but one of sympathy and friendship.

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It was not upon their impulse that their government acted in entering this war." The distinction breaks down in the presence of the enormous bill for reparations. At the same time Premier Clemenceau, in his covering letter attached to the reply of the allied and associated powers to the German counter-proposals, repudiated the suggestion that the German revolution should lessen the responsibility of the people for what their rulers had done. "The German revolution," he said, "was stayed until the German armies had been defeated in the field and all hope of profiting by a war of conquest had vanished. Throughout the war, as before the war, the German people and their representatives supported the war, voted the credits, subscribed to the war loans, obeyed every order, however savage, of their Government. They shared the responsibility for the policy of their Government, for at any moment, had they willed it, they could have reversed it." The logic is conclusive if we refuse to take into account the fact that, not only did the war shut off avenues of information with regard to the real causes of the conflict, but as a crisis in the nation's history it obtained an emotional and unreasoning support from many thousands who would never have voted to begin it. It may also be said that even so docile a people as the Germans might have resisted more effectively the domination of their military caste had not the whole international system of the decades before 1914 been based upon the rivalry of opposing imperialistic policies, so as to deceive even right-minded persons into accepting as a war of self-defense what was in reality a war of aggression.

In addition to reparation in the form of payments of money, Germany is required by the treaty to replace, ton for ton and class for class, all merchant ships and fishing boats lost or damaged owing to the war, partly by the immediate cession of much of her own merchant and fishing fleet, and partly by the construction of new vessels during a period of five years. Further provisions for reparation consist in an elaborate array of restrictions imposed upon German trade. German customs duties are regulated to prevent discrimination against the trade of the allied and associated powers, shipping privileges in German ports are secured to them, and unfair German trade practices are prohibited. A large number of international conventions to which Germany was a party are to be renewed, and special treaties with individual members of the allied and associated nations may be renewed upon giving notice. German property in the territories of the Allies may be liquidated as compensation for property of their citizens not

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restored or paid for by Germany; and provisions are laid down for the cancelation or renewal of contracts between citizens of the allied and associated nations and German citizens.

In the counter-proposals to the original draft of the treaty, Germany protested against the surrender of her merchant fleet, and offered as an alternative "to put her entire merchant tonnage into a pool of the world's shipping, to place at the disposal of her enemies a part of her freight space as part payment on reparation, and to build for them for a series of years in German yards an amount of tonnage exceeding their demands." Germany likewise proposed a general revival of all multilateral and bilateral treaties as well as the reciprocal establishment of consular relations. But neither suggestion was agreed to. It was, however, promised by the allied and associated powers in their reply to the counter-proposals that they would not withhold the commercial facilities necessary to the resumption of German industries, but would to the extent of their abilities afford facilities for food supplies, raw materials, and overseas transport.

The original draft of the treaty called for the surrender by Germany of the coal mines of the Saar Basin as compensation for the destruction of coal mines in northern France. In order that this might not involve a cession of territory contrary to the principle of self-determination, the treaty provided that the territory should be governed by a commission appointed by the League of Nations, which was to administer the country under the conditions prescribed by the treaty. After fifteen years a plebiscite was to be held by communes to ascertain the desire of the population whether it should continue under the existing control of the league or be united to France or to Germany. This provision at once provoked the sharpest criticism in the liberal press as being a disguised violation of the principle of self-determination, and as unwisely offering a strong temptation to the rival powers to carry on propaganda which would be a menace to the cause of peace.

In the German counter-proposals, it was complained that "the purely German district of the Saar must be detached from our empire, and the way must be paved for its subsequent annexation to France, although we owe her debts in coal only, not in men." As an alternative Germany proposed to deliver annually for the first five years twenty million tons of coal, and for the succeeding five years eight million. The reply of the allied and associated powers, in rejecting the proposed alternative, affirmed that they sought "to impose for the destruction of the mines in northern France a form of reparation which by its exceptional

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nature will for a limited period be a definite and visible symbol," and at the same time to make doubly sure that France would have the necessary supplies for the restoration of her industries. The final draft makes no substantial changes in the original.

As an item of reparation in the form of bringing particular offenders to justice, the treaty makes provision for the trial of the former Kaiser and of persons accused of committing acts in violation of the laws of war. In the case of the Kaiser the indictment is "for a supreme offense against international morality and the sanctity of treaties." The earlier plan of a criminal indictment was abandoned owing to the obvious difficulty of making out a legal case. Neither was the making of war a crime at international law as it stood in 1914, nor were the more general policies pursued by the German government, however shocking to the moral sense, in contravention of such clearly defined rules as must constitute one of the elements of a crime. On the other hand, in the case both of private soldiers and of officers, there exist documents to prove violations of the definite and time-honored laws of war, such as forbid, for example, the maltreatment of noncombatants. Here the treaty requires that the offenders be delivered up to be tried by military tribunals under military law. The German counter-proposals asked that the inquiry into the responsibility for the war and culpable acts in its conduct be conducted by an impartial neutral commission having the right to investigate on its own responsibility the archives of all the belligerent countries and all the persons who took an important part in the war. In reply the allied and associated powers rehearsed the part played by Germany in bringing on the war, and asserted that they could not intrust the trial of the persons responsible to those who had been their accomplices; but that since almost the whole world had banded together to check Germany the tribunals established would present the deliberate judgment of the greater part of the civilized world.

Security Provisions. The provisions adopted in the form of securities against future misconduct on the part of Germany include the demobilization of the German army and its limitation to a permanent strength not exceeding 4000 officers and 100,000 men (an additional temporary force of 100,000 being permitted by an amendment to the original draft); the closing of all factories for the manufacture of arms and munitions of war except those specifically mentioned; the abolition of conscription and the adoption of a period of enlistment suffi-

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ciently long to prevent the training of any large number of troops by successive replacements; the dismantling of all fortresses situated within a neutral zone fifty kilometers east of the Rhine, as well as those along the Baltic, within a period of six months, and those in occupied territory when ordered by the allied high command; the demobilization of the navy and its limitation to a small force of thirty-six ships of various sizes; and the surrender of all other war vessels, and of all airships except a small number to be used in searching for submarine mines. The occupation of the territory west of the Rhine is to be continued for a period of fifteen years; but this occupation is more in the nature of a general guaranty for the execution of the treaty than a means of protection against future attack; and provision is made for the retirement of the armies of occupation from certain areas after periods of five and ten years if the conditions of the treaty are faithfully carried out. The civil administration of the occupied territory is to remain in the hands of the German authorities under German law, but its activities shall be subject to the control of an interallied Rhineland high commission, consisting of representatives of Belgium, France, Great Britain, and the United States, who may, whenever they think it necessary, declare a state of siege in any part or all of the territory concerned.

Constructive Provisions. As observed above, it is important to distinguish between those provisions of the treaty which bear upon the problem of reparation for wrong done and security against the recurrence of aggression, and those of a constructive character which seek to correct conditions which have long been an obstacle to the peace of Europe. While the peace conferences of the past have been chiefly preoccupied with the problem of imposing terms upon the defeated enemy and obtaining such a division of the spoils as would disturb as little as possible the existing balance of power, the present conference has consciously sought not only to check designs of national aggrandizement, but to subordinate even the just demands for reparation and securities to a new international system based upon the self-determination of nationalities and the principle of a coöperative community as against competing alliances and individual rival states.

In the first place numerous readjustments of territorial boundaries have been made to satisfy the aspirations of national groups. Foremost among these readjustments is the cession of Alsace-Lorraine to France "to redress the wrong done by Germany in 1871 both to the rights of France and to the wishes of the population of Alsace and Lor-

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raine." The treaty assumes that it is the desire of the two provinces to be reunited to France, and in consequence no provision is made for a popular vote of the inhabitants. The German counter-proposals conceded the loss of sovereignty but asked for a plebiscite. The reply of the conference stressed the point of reparation for the act of spoliation in 1871, and asserted that the present as well as the past will of the inhabitants had been amply attested on many occasions. It is to be noted that, contrary to the case in other transfers of territory, no portion of the public debt of Germany attaches to the two provinces and no payment is to be made by France for public property of the ceding state.

The small neutral state of Moresnet lying on the borders of Prussia and Belgium is ceded by Germany to Belgium. This district, which is of importance because of the zinc mines under its mountain, was placed in 1817 under the joint government of Prussia and Holland (to whose rights Belgium succeeded); but in recent years the joint condominium has given rise to frequent disputes. The wishes of the inhabitants may be inferred from a request made in 1897, when the situation of Moresnet was being discussed in the Reichstag, that they be allowed to remain in their neutral condition or else be incorporated into Belgium. With Moresnet goes the diminutive district of Prussian Moresnet just over the border, the communal woods of which are awarded to Belgium in partial compensation for the destruction of Belgian forests. The diminutive districts of Eupen and Malmedy are likewise ceded to Belgium, subject to a right on the part of their inhabitants to protest against the change of sovereignty, the final decision resting with the League of Nations. The German counter-proposals assert that there are not sufficient guarantees that the plebiscite, taken after the transfer, will be independent. The reply of the conference recites the separation of the districts from Belgium in 1814 without consideration of the people, as well as the fact that the districts have been made a basis for German militarism by the construction of the great camp at Elsenborn and of various strategic railways directed against Belgium.

A new boundary line between Germany and Denmark is to be fixed on the principle of self-determination. The original draft of the treaty drew a line from the mouth of the Schlei river to the mouth of the Eider, marking off the duchy of Schleswig, which (together with the purely German duchy of Holstein) was taken from Denmark by Prussia in 1866. Within this territory an international commission was to super-

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vise a plebiscite arranged in three zones. The object of the zone system of voting was to make it possible to secure a new frontier which would actually accord with the wishes of the population, not one which might include within either Germany or Denmark a large minority opposed to the decision of the majority. The Danish press promptly objected to the proposed plebiscites on the ground that there was reason to fear that many Germans might vote to be incorporated into Denmark to escape the burden of taxation to which their country would be subjected, and that they would be undesirable citizens of Denmark. The German counter-proposals conceded the transfer of the "preponderantly Danish districts" on the basis of a plebiscite. The reply of the conference, after referring to the promise of Prussia to hold a plebiscite in northern Schleswig after its seizure in 1864, agreed, as a substitute for the original provisions, that the two northerly zones be evacuated by the Germans and that the residents of each of these zones should be free to choose the sovereignty under which they preferred to continue, leaving the southern part of Schleswig with Germany.

The cession by Germany to Japan of the rights of Germany in the Shantung peninsula is at variance with the principle of self-determination and must be accounted for on political grounds. Not only does Kiao-Chau go to Japan, but all German rights in the railroad from Tsing-tao to Tsinan-fu, including all facilities and mining rights and rights of exploitation, pass equally to Japan. It appears that, early in 1917, secret treaties were entered into between Great Britain, France, Italy, and Russia on the one hand and Japan on the other, by which it was agreed that Japan should be supported in her claims to the province of Shantung and be given all of the German islands north of the equator. These treaties were described as the price paid to Japan for allowing China to enter the war. The Japanese government has publicly promised to return the territory to China later; but as the promise is not upon a contractual basis, and the transfer may be attended by conditions unacceptable to China, the government of China was not satisfied and instructed its delegates not to sign the peace treaty with the above provisions included. Apart from the arrangements regarding Shantung, the treaty provides that Germany shall renounce in favor of China all benefits and privileges acquired by Germany by the final Boxer protocol, as well as the indemnities accruing subsequently to the entrance of China into the war. In addition, the German concessions at Tientsin and Hankow, together with the

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public property situated therein, are ceded directly to China; and China on her part declares her intention of opening the said areas to international residence and trade. As an item of reparation to China for a past offense, Germany is required to return to China the astronomical instruments carried away by her troops in 1900–01.

Probably the most important constructive work of the treaty is the creation of two new states on the basis of the principle of self-determination. Germany recognizes the complete independence of the Czechoslovak state, including the autonomous territory of the Ruthenians south of the Carpathian mountains. The frontiers of the new state on the northwest, where they are contiguous to Germany, follow the frontier of Bohemia in 1914. On this latter point there is question whether a boundary line could not have been drawn so as to exclude the German portions of Bohemia. It is estimated that Bohemia contains a German minority as large as thirty-three per cent, and a minority which contains a large proportion of the more prosperous business elements of the state. The counter-proposals demanded the right of self-determination for this body of Germans. By the treaty with Austria the frontier of the new state on the southeast follows the former administrative boundaries separating Bohemia and Moravia from Upper and Lower Austria, subject to minor rectifications in the regions of Gmünd and Feldsberg and along the river Morava (March). Austria likewise recognizes the independence of the Czechoslovak state; and Czechoslovakia on its part agrees to embody in a treaty with the principal allied and associated powers such provisions as may be deemed necessary to protect racial, linguistic or religious minorities and to assure freedom of transit and equitable treatment for the commerce of other nations.

The creation of an independent Polish state was a more difficult problem, owing to the fact that the Poland of the eighteenth century had been partitioned among three of the great powers, and that the Poland of 1774 was not a coherent national unit but contained within itself numerous subject nationalities. On the part of Germany the original draft of the treaty provided for the cession of a part of Upper Silesia, most of Posen, and the province of West Prussia on the left bank of the Vistula; and since these districts would include many who were not Poles, special provision was made for the protection of racial, linguistic, or religious minorities. Owing to the irregularity of the racial boundary line between Poland and East Prussia, it was provided that two distinct plebiscites should be taken in that section. The northeastern corner of East Prussia around Memel was to be ceded by

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Germany to the associated powers, subject to their subsequent disposition of the territory. The port of Danzig and the district immediately about it was to be constituted into a "free city" under the guaranty of the League of Nations, and was to be governed by a high commissioner appointed by the league and by the president of Danzig, in agreement with the duly appointed representatives of the city. Provision was made that the city should be included within the Polish customs frontiers, without, however, interfering with the free area in the port; and Poland was to be insured the free use of the city's waterways, docks, and other port facilities, together with the control and administration of the Vistula river.

In the German counter-proposals a protest was made against the cession of West Prussia, "which is preponderantly German," and of Pomerania and Pomerania-Danzig, "which is German to the core," and against the amputation of East Prussia from the body of the state and the loss of Memel, "which is purely German," and against the loss of Upper Silesia "although it has been in close political connection with Germany for more than 750 years, is instinct with German life, and forms the very foundation of industrial life throughout East Germany." The reply of the conference stated that in respect to West Prussia and Posen the treaty did not restore the original boundaries of Poland, which the "strict law of historic retribution" might have justified, but left to Germany those districts in which there was an undisputed German predominance contiguous to Germany. Modifications were, however, made in detail, and the historical frontier between Pomerania and West Prussia was restored. With regard to Danzig the reply explained that as the population was predominantly German it had not been incorporated into Poland, but that it was essential that there should be a close connection between the city and Poland, so that the sole seaport available to Poland might be kept free from all foreign domination. The reply admitted that the city of Memel itself was in large part German, but stated that the district as a whole had always been Lithuanian. A concession was made with regard to Upper Silesia by the provision that the territory should be immediately ceded to Poland, but that a plebiscite should be held to determine the wishes of the population. Upper Silesia was not formerly part of the kingdom of Poland, but, the reply stated, its population was Polish in origin and speech; whether Polish in sentiment the plebiscite is to determine.

In the treaty with Austria provision is made for the creation of a new Serb-Croat-Slovene state, the independence of which Austria recog-

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nizes. As in the case of Czechoslovakia, the new state agrees on its part to enter into a treaty for the protection of minorities and for freedom of transport.

The disposition of the German colonies is provided for in two separate parts of the treaty. As a first step Germany renounces in favor of the allied and associated powers her overseas possessions with all rights of sovereignty and titles to movable and immovable property therein. The constitution of the League of Nations then comes into operation with its provisions for the administration of the colonies by a mandatory state. The colonies in Central Africa are to be administered by the mandatory under a separate form of government under conditions approved by the league, by which equal opportunities for trade will be allowed to all members of the league and certain abuses, such as the trade in slaves, arms and liquor, will be prohibited. The colonies in Southwest Africa and in the South Pacific Islands are to be administered under the laws of the mandatory state as integral portions of its territory; but in both cases the mandatory state is to render an annual report to the league in reference to the territory committed to its charge. The German counter-proposals insisted that the colonies be restored to Germany, who would administer them as mandatory in accordance with the provisions of the league. The reply of the conference stated that no concessions could be made in regard to the former German colonies, on the ground that the German leaders themselves had admitted the abuses attending German colonial administration, and the allied and associated governments could not "again abandon 13,000,000 or 14,000,000 persons to a fate from which the war has delivered them." At the same time the reply points out that the loss of the colonies will not hinder Germany's normal economic development, since Germany's exports to and imports from her colonies constituted an insignificant part of her foreign trade.

A number of constructive provisions in regard to international transportation are included in the treaty, but it was thought necessary to limit their application to the grant of easements in favor of the allied and associated governments on German railways and waterways and in German ports, instead of extending them to the mutual intercourse of all members of the league. Ships of the allied and associated powers shall enjoy for a period of five years the same rights in German ports as German vessels, and the privilege may be enjoyed after that period on condition of reciprocity. Freedom of transit must be granted by Germany through her territories by rail or water to the persons, goods,

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ships, carriages and mails from or to any of the allied or associated powers. Czechoslovakia is to have access to the sea by means of special transportation rights north and south. To the north, Germany is to lease to Czechoslovakia spaces in the ports of Hamburg and Stettin, while to the south the new state is to have the right to run its own through trains to Fiume and Trieste. Belgium is to be permitted to build a deep-draft canal from the Rhine to the Meuse within twenty-five years if she so desires. At the same time the German railway system is to be reorganized so as to secure through communication across its territory. Aircraft of the allied and associated powers are to have full liberty of passage over and landing on German territory, and equal treatment with the most favored nation planes as to internal commercial traffic in Germany.

Further constructive measures consist in the internationalization of the Kiel Canal and of the navigable German rivers. The Kiel Canal, previously open on the sufferance of Germany, is to remain open and free to the ships of war and of commerce of all nations on terms of absolute equality, and thus comes within the conditions already laid down for the use of the Suez and Panama canals. The Rhine and the Moselle had already been internationalized by the Congress of Vienna in 1815, and provision is merely made for a change in the central commission regulating the navigation of the two rivers. The European Danube commission, created in 1856, is continued, and a new commission is created for the Upper Danube. The Elbe, the Oder, the Ultava, and the Niemen are declared international, and are placed under special commissions composed of representatives of the riparian and other states. Czechoslovakia is thus insured a waterway to the North Sea and to the Baltic, and Poland an outlet on the northeast as well as along the Vistula; while Czechoslovakia, Serbia and Rumania are given special protection in the navigation of the Danube.

As against these arrangements of the original as well as the final draft of the treaty, Germany argued in her counter-proposals that they constituted an infringement of her sovereignty so long as they were not reciprocal, and that the third of the "fourteen points" had called for the establishment of an equality of trade conditions among all the nations consenting to the peace. The reply of the conference states that the principles announced by President Wilson would be brought into effect when the world returned to normal conditions, but that in the meantime a transitory régime was essential to save certain allied states from a position of economic inferiority because of the ravaging of their territories and the contrasting conditions of German industry.

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The treaty makes provision for an ultimate grant of reciprocity after five years, unless the League of Nations decides to prolong the period. It is clear that the whole subject of economic rights of way, involving the use of railways and waterways, freight rates, freight facilities, through traffic, the use of ports and port dues, must of necessity be regulated by the league if one of the chief sources of international rivalry and bitterness is to be removed.

The last of the important constructive provisions of the treaty deals with the problem of an international labor organization. The problem is in reality not an international one, in the sense of dealing with the relations between nations, but a universal national problem the solution of which will in the mind of the conference be furthered by a permanent international organization in the form of an annual labor conference and an international labor office. Nine principles of labor conditions are set forth in the treaty, and they represent in general the standards of labor conditions advocated in recent years by the American Federation of Labor. The section of the treaty dealing with labor brought forth from Germany the demand that a labor conference should meet immediately at Versailles, on the ground that the final decision in questions of labor and labor protection belonged to the workers themselves. Moreover, the German note argued, the annual conference provided for in the treaty disregarded the demands made by the international trade-union conference at Berne, held in February, 1919, in that the representation accorded to the workers gave them but one-quarter of the total votes of the conference instead of the one-half provided for at Berne, and also in that the conference at Berne provided for the adoption of international laws which *ipso facto* would have the effect of national laws in the several states, whereas the treaty only provided for the adoption of "recommendations" by the labor conference which the governments might or might not decide to convert into laws. Premier Clemenceau replied that the allied and associated powers believed that labor legislation should be adopted by representatives of the whole community, and that the views and interests of governments were not necessarily antagonistic to those of labor. Moreover, while the conference did not consider that international labor laws could at present be made operative merely by resolutions passed at conferences, it had adopted a resolution that the labor organization should be given the power, as soon as possible, to pass resolutions possessing the force of international law. Also, the Washington conference, meeting in October, 1919, would be asked to admit German representatives immediately thereafter to full membership.

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NEWS AND NOTES

Personal and Miscellaneous

EDITED BY FREDERIC A. OGG

University of Wisconsin

The committee on program for the annual meeting of the American Political Science Association to be held at Cleveland, December 29–31, is as follows: W. F. Willoughby, Institute for Government Research, Washington, D. C., chairman; F. W. Coker, Ohio State University; A. R. Hatton, Cleveland, Ohio; John A. Fairlie, University of Illinois; and Frederic A. Ogg, University of Wisconsin. Communications concerning the program should be addressed to the chairman. Sessions are being planned on state constitutions, national administration, and political conditions in Europe and the Far East; and there will be joint meetings with the American Historical Association and the National Municipal League.

Dr. John J. Halsey, professor of political and social science at Lake Forest College since 1878, died on May 29.

Dr. Raymond Moley, assistant professor of political science in Western Reserve University, has been appointed associate professor of political science and director of the bureau of research in government at the University of Minnesota. Professor Moley has also been engaged by the trustees of the Cleveland Foundation to complete during the present summer the recreational survey started two years ago and discontinued on account of the war.

Dr. R. E. Cushman, of the University of Illinois, has been appointed associate professor of political science at the University of Minnesota. He will have charge of the work in constitutional law and labor legislation. He gave courses at Columbia University this summer on social legislation and state government.

Mr. Albert J. Lobb has been appointed instructor in political science at the University of Minnesota. He will give courses on elementary and business law.

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Professor J. M. Mathews, of the University of Illinois, gave courses on national and state government in the summer school of the Johns Hopkins University. He will be on leave of absence during the coming academic year.

Mr. Albert H. Washburn, of Middleborough, Mass., has been appointed professor of political science at Dartmouth College, where he lectured on international law during the spring term. As a practicing attorney, Mr. Washburn has made a specialty of customs cases. He is now the president of the Customs Bar Association.

Dr. William A. Robinson, associate professor of political science at Washington University, St. Louis, has resigned to accept a professorship of political science at Dartmouth College.

Mr. Leonard D. White has been promoted from an instructorship to an assistant professorship in political science at Dartmouth College.

Dr. L. S. Rowe, head of the political science department at the University of Pennsylvania, returns to the university in September after two years of service as assistant secretary of the treasury at Washington.

Dr. Clyde L. King, assistant professor of political science at the University of Pennsylvania, will also resume his academic duties in the autumn. He has been engaged during the war in handling problems of milk supply and distribution for the United States and Pennsylvania food administrations.

Professor J. H. Hollander, of Johns Hopkins University, delivered the Weil lectures on American citizenship at the University of North Carolina, May 5–7, on the general subject "American Citizenship and Economic Welfare."

Professor Edgar Dawson, of Hunter College, has been appointed to represent the American Political Science Association, and also the National Municipal League, on a National Committee for Teaching Citizenship of which Dean Thomas M. Balliet of the School of Pedagogy of New York University is chairman.

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Mr. W. F. Dodd, after a year's service with the war department, is in charge of collecting and preparing data for the constitutional convention to be held in Illinois in 1920. He has resigned from the University of Chicago.

Dr. N. A. N. Cleves, who has been with the war trade board during the past year, has been elected assistant professor of history and political science in the University of Arkansas.

Dr. Frederick A. Cleveland has been appointed the first professor of United States citizenship at Boston University, under the George A. Maxwell endowment.

Professor A. R. Hatton has resigned his position at Western Reserve University and will devote his time to the work of the National Short Ballot Association and to expert service in connection with the framing and revision of city charters.

Dr. Stanley K. Hornbeck, associate professor of political science at the University of Wisconsin, has accepted a professorship of political science at the University of Nebraska. Dr. Hornbeck has been on leave of absence from Wisconsin for two years, and during the past six months has served as an expert on oriental affairs at the Peace Conference.

Dr. W. R. Carpenter, formerly an instructor in political science at the University of Wisconsin, has been appointed to an instructorship in international law in New York University.

Professor David P. Barrows, first vice-president of the American Political Science Association, has resumed his work at the University of California after two years of absence in war service.

Professor Lindsay Rogers, of the University of Virginia, gave courses on politics in the summer session of Columbia University.

Mr. W. D. Arant has been appointed instructor in political science at the University of Virginia, and Mr. F. M. Davies has been made instructor in political science and economics.

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Dr. Harrison C. Dale, professor of political science at the University of Wyoming, has been designated by Governor Carey to make a survey of the state institutions with a view to the installation of the recently adopted state budget system. The Wyoming budget law is modeled on the Virginia statute.

Mr. Clinton Rogers Woodruff, of Philadelphia, who has served as secretary of the National Municipal League since the organization was formed in 1894, has signified his intention to retire from the office during the current year.

A nation-wide celebration of the "birthday" of the federal Constitution is planned by the National Security League. Dr. David Jayne Hill is chairman of the committee having the arrangements in hand.

Dartmouth College has instituted a half-year course on the problems of citizenship which all freshmen will be required to take. One member of the faculty will give his entire time to this course, and aid will be rendered by representatives of the departments of history, political science, economics and sociology. It may be added that a half-year scientific course dealing with evolution is to be similarly required.

Special courses have been instituted at the University of Minnesota preparatory to the diplomatic and consular service, to state and federal administration, and to municipal administration and engineering.

By an act approved March 1, 1919, the Indiana bureau of legislative information, which was dis-established by a rider to an appropriation bill in 1917, was reëstablished as the legislative reference bureau. The new bureau began active operation on April 1. Its duties are to maintain a special legislative reference library; to operate a bill-drafting department; to collect, systematize, and tabulate agricultural and economic statistics; and to edit and distribute the *Indiana Year Book*, which contains the official state reports. The board having charge of the bureau is composed of the state librarian and the presidents of Indiana and Purdue universities.

After a year's suspension on account of war conditions, the Harris prizes in political science have been revived. Two prizes will be offered in 1920, a first prize of one hundred and fifty dollars and a

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second prize of one hundred dollars, for the best essay submitted by an undergraduate of any college or university of Indiana, Illinois, Michigan, Wisconsin, Minnesota, and Iowa. The subject must be selected from an extensive list prepared by a committee of representatives of the political science departments of eight middle western universities. Information may be obtained by addressing Professor N. D. Harris, Northwestern University, Evanston, Illinois.

The American Philosophical Society has announced that the Henry M. Phillips prize of two thousand dollars will be awarded in 1920 for the best essay submitted by any person on the subject "The control of the foreign relations of the United States; the relative rights, duties, and responsibilities of the president, the senate, the house of representatives, and the judiciary, in theory and in practice." The committee in charge consists of Professor John Bassett Moore, Hon. David Jayne Hill, ex-Governor Simeon E. Baldwin, John Cadwalader, W. W. Keen, and William B. Scott. Essays may be written in any language, but if not in English they must be accompanied by an English translation.

The Norwegian Nobel Institute, at Christiania, announces an international prize essay contest on the following subject: "The history of the free trade movement in the nineteenth century, and the bearings of this movement on international peace." Essays may be submitted in English, French, German, or any of the Scandinavian languages. The author of the successful essay will receive the sum of five thousand Norwegian crowns, the monograph becoming the property of the Institute. Essays, bearing an epigraph and accompanied with a sealed envelope containing the name of the author, must be sent to the Norwegian Nobel Institute, 19 Drammensvei, Christiania, before July 1, 1922.

At the annual meeting of the Civil Service Reform League, held at Philadelphia in April, advanced ground was taken in favor of a general reformation of the government service, involving the development of the Civil Service Commission into a full-fledged employment department. Under a recent act of Congress, a special commission on the reclassification of the civil service is now at work in Washington. The primary task of this body is to standardize positions and pay and to introduce service ratings in the various departments.

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The national conference on "The New International Obligations of the United States under the proposed League of Nations Covenant," held at Columbia University June 5 as the semi-annual meeting of the Academy of Political Science, was attended by over 1200 persons and brought out a searching and illuminating discussion of the prominent features of the Covenant. Dwight W. Morrow, who was adviser to the allied maritime transport conference, explained the difficulties and the significant results of methods worked out in international coöperation during the war and argued that what is needed is not a world police force to maintain peace, but rather just the thing that the covenant proposes, i.e., an international organization for conference and unanimous agreement, as a direct and continuous outgrowth of the Hague Conference and the international bodies which proved so effective as a means of international coöperation during the war.

Senator Key Pittman, of the foreign relations committee, defended the covenant as a necessary measure of international coöperation on the part of the United States to prevent war and the evils of militarism and to guarantee a great nationalism for us as well as the national independence of every subservient race and people.

Mr. George Wharton Pepper subjected the proposed covenant to a searching analysis and maintained that it is not based on the principle of diplomatic conference and unanimous consent, but is a dangerous delegation of sovereignty to an international body with power to determine its own jurisdiction and to coerce any member state which finds itself in the minority on a vote of seven to two in the Executive Council.

Congressman Herbert C. Pell, Jr. and Arthur K. Kuhn, secretary and counsel for the peace conference committee of the League to Enforce Peace, defended the covenant, the latter arguing that proportional representation, both of states and national minorities, is necessary under the League of Nations to secure the dominant principle of the foreign policy of the United States, which is the protection of the weak against aggression by the strong.

The important economic factors in the covenant, especially international labor standards, were discussed by former Attorney-General George W. Wickersham, former Ambassador Abram I. Elkus, Dr. John B. Andrews of the American Association for Labor Legislation, and Mr. W. H. Swift, representing the National Child Labor Committee. The mandatory system was discussed by Alpheus H. Snow, of Wash-

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ington, D. C. Papers on international financial problems and on problems of administration were presented by William P. Malburn, chief national bank examiner, and M. W. Harrison, secretary of the savings bank section of the American Bankers Association. The complete proceedings of the conference will be published in a volume of the *Proceedings of the Academy of Political Science.*

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BOOK REVIEWS

EDITED BY W. B. MUNRO

Harvard University

Authority in the Modern State. By HAROLD J. LASKI, of the Department of History in Harvard University. (New Haven: Yale University Press; London: Humphrey Milford, Oxford University Press. Pp. 398.)

This volume is the first work published on the Theodore L. Glasgow Memorial Publication Fund, an anonymous gift to Yale University in memory of Sub-Lieutenant Theodore L. Glasgow of the British Royal Naval Air Service, who was killed in action on the Ypres front.

Mr. Laski has already won for himself a preëminent place among students of political theory. His study of de Maistre, his essay on "The Problem of Sovereignty," and his various review articles are all marked by a singular depth of penetration into the realities of political phenomena, by an ability for unerring criticism of the weaknesses and limitations of accepted doctrines, and by an unusual degree of constructive originality and suggestiveness. The volume under review develops in somewhat broader fashion the thesis of the earlier work on "The Problem of Sovereignty." The first chapter deals with the general problem of the authority of the modern state. The state is viewed as only one of the innumerable group-units possessing corporate personality. Its *raison d'être* lies in its ability to contribute to the needs of the individuals who compose it. It is essentially a public service corporation. It possesses no sacrosanct character; it is not an end in itself. The juristic doctrine which clothes it with sovereignty is a fiction. In last analysis, the action and the power of the state are identical with the action and power of the persons, assemblies, or classes within it who actually rule. Obedience to the state rests, like obedience to the mandates of any other corporate group, ultimately upon the response of the individual conscience. In case of conflict between the claims of the state and those of other corporate bodies, even though its demands be fortified by the sanction of popular majorities,

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the individual conscience may rightfully acknowledge allegiance to the nonpolitical group. These other corporate bodies have rights which are entirely independent of any grant or derivation from the state. The state denies such rights at its peril. The doctrine of sovereignty, in excluding the voice of conscience and denying the rights of other group-units, reveals itself as essentially sundered from the fundamental facts and realities of social life.

Evidence in support of these general theoretical postulates is drawn from French sources. Historical studies of the theories of Bonald and his two modern disciples Brunetière and Bourget, of Lamennais and of Royer-Collard constitute more than half of the work, in the course of which the political ideas of the period of the French Restoration are rather fully elucidated. It is a period from which we do not expect to draw much inspiration and it has, in consequence, been too often neglected. The traditionalism of the ultramontanes, the liberal revolt of Lamennais against the excessive authoritarianism of the papal power, and the moderate and balanced constitutionalism of Royer-Collard are all drawn into contribution.

The last chapter is devoted to administrative syndicalism in France and, in the opinion of the reviewer, is the most interesting and suggestive portion of the work. The demand by the members of the French civil service for the complete rights of association and collective action, including the right to strike, is one of the most significant political movements of recent years. The government employees insist that their relation to the government is contractual and similar in every respect to that obtaining between employees and employer in private industry. They recognize an allegiance to their association, within its rightful sphere, as authoritative as that due to the state; and maintain that in their corporate capacity they possess rights which the state may not infringe.

On the other side, the position of the government is that employees are agents of the sovereign state and that resistance to its will or disobedience to its orders is an impeachment of its sovereignty and, therefore, not to be tolerated. In practice the government has been forced to recognize the right of association on the part of the civil employees, and, though the right to strike has always been denied, the great postal strike demonstrated the impossibility of the government enforcing its view, thus revealing the hiatus between the accepted theory of state sovereignty and the facts of political life. A breach in the bulwarks of state sovereignty is likewise being gradually

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made by the administrative jurisdiction of the council of state which, from being a mere auxiliary agency of the executive, is coming to exercise an increasingly restrictive control upon its arbitrary acts.

The problem of sovereignty in the modern state is a fundamental one. Must there not be an ultimate source of authority, or what amounts to the same thing, an ultimate source of control? How, it may be asked, are conflicts between opposing groups to be adjusted except upon the basis of the supreme will of the state? It is in affording an answer to this question that Mr. Laski is perhaps least convincing. The reader is left in some uncertainty as to just how he would organize a government that would give expression to the rights of groups. Who is to determine what are and what are not to be respected as such? Or are we to return to the medieval chaos in which there was no final arbiter, when emperor and pope, king, feudal baron and free city each asserted an independence of all the others and made that independence good so far as each possessed the power? At the moment when we are attempting to regulate the anarchical relations between states by means of a league of nations, does Mr. Laski propose an abandonment of the ultimate sanction of the state's authority within its own borders? The author's identification of state and government is another point upon which the reader is likely to raise a query. He would discard the distinction which Burgess has elaborated between these two terms, and which in the American political system has received practical embodiment. This differentiation is the basis in the United States of a field of individual and corporate rights and of governmental limitations. May it not be possible to enlarge this sufficiently to give adequate protection to those group interests which are so imperatively asserting themselves? Any other solution would certainly seem to tend toward anarchy. However, in the rapid political evolution of the present age, dare we deny the possibility of the development of such an articulate public opinion as would be capable eventually through its own nongovernmental organs of enforcing a will which will supersede the sovereign will of the state expressed through the legally constituted governmental agencies? Though not clearly developed, it is along this line that Mr. Laski is apparently seeking the solution to the difficulties of his theory of coördinate groups.

This volume is not a systematic treatise upon the theory of the state; it is rather a series of related studies upon a single problem: viz., the foundations and limitations of state authority. The author promises a more comprehensive work in the not distant future, which

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will be eagerly awaited by every student who has become interested in the newer currents of political thought. Mr. Laski is attacking from the political angle the same problem as is being grappled with so ably and successfully from the legal approach by Dean Pound, and from the economic by Mr. Veblen. The old landmarks no longer retain their validity, and while it is too early as yet to specify in detail the lines along which the new concepts will fall, it is already evident that a new and more adequate social theory is rapidly evolving.

In a work of such distinct merit, the reviewer hesitates to draw attention to minor defects. There are, however, an unduly large number of verbal slips, many of them merely typographical errors, but many others for which the author must be held accountable. The proof-reading was evidently done in very hasty fashion; and there is no evidence that the manuscript was read before publication by a careful critic. This is the more to be regretted as one has the right to expect a high standard of technical excellence in the publications of the Yale University Press.

WALTER JAMES SHEPARD.

University of Missouri.

The New State. By M. P. FOLLETT. (New York: Longmans, Green and Company. Pp. vii, 373.)

This book belongs to the literature of unrest. It urges the need of political reconstruction upon the basis of group organization. It is manifestly based upon wide reading. Law, ethics, sociology and psychology are drawn upon for material in support of the author's views, but throughout runs a vague emotionalism that makes it difficult to get an exact statement of those views. The author insists upon the supreme importance to the individual and to society of substituting group consciousness for the herd instinct. Then certainly one should be told just what is the difference, and the author labors to do this very thing. One is told that the group process is "an acting and reacting, a single and identical process which brings out differences and integrates them into a unity." "Suggestion is the law of the crowd, interpenetration of the group." "A crowd does not distinguish between fervor and wisdom; a group usually does." Anarchy is condemned because it is antagonistic to the group, which is exactly contrary to what the anarchists themselves claim. Thus it all seems to depend upon the position one takes. Behavior that one likes is group

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activity; what one dislikes is herd instinct. The author seems to be aware that the matter is left befogged, for it is observed that "only further study will teach us how much herd instinct and how much group consciousness contribute to our ideas and feelings."

The book abounds with oracular utterance, but fails to convey clear and exact ideas upon the subject it discusses. It is interesting chiefly as a portent of the times.

HENRY JONES FORD.

Princeton University.

Experiments in International Administration. By FRANCIS BOWES SAYRE, S.J.D. (New York: Harper and Brothers. Pp. xiii, 201.)

It would not be easy to name a book at the present moment better worth reading. Here in small compass is a clear statement of facts showing the theory and history of some experiments in international organization; and, wisely enough, the author deals chiefly with that feature of such organization which is just now most important and which has received least attention heretofore. If international arrangements be divided, like the functions of national government, into legislative, judicial, and executive, it will be found that the literature regarding legislative and judicial matters is vast and that the literature regarding executive matters is scanty. The Hague Conferences, for example, have dealt chiefly with the adopting or codifying of rules of law and the organizing of arbitral or judicial tribunals. It happens that since the armistice of November 11, 1918, the propositions for maintaining world peace have laid less stress on legislative and judicial power and more on executive power. The new thought, clearly enough, has been to create and direct some sort of international military force, and also to administer, through machinery called "mandatory," the international will regarding some peoples deemed incapable of self-government. To determine whether an international executive authority can be satisfactorily used either in war or in peace is obviously one of the questions of the hour. Regarding international military force there is little literature, and as yet this literature has necessarily dealt with theory only. Regarding international executive work of a nonmilitary nature the literature is also slight; and it is to this part of the subject that this book makes a contribution which fortunately deals not with theory but with the history of actual experiments.

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At the outset is given an account of the chief attempts to create wide international leagues for peace, beginning with 1648. The phraseology of the early treaties brings to mind so much of our contemporary hopes and promises, that, as the author says (pp. 5–6): "One wonders if, in the cold world of historical fact, a League of Nations is not, after all, fundamentally impossible." The author's view is that the main reason for the failures of the past has been that "heretofore treaties concluding great world wars have been founded essentially upon injustice" and also that "in the arrangements of the past nations have been unwilling to submit to a sufficient amount of external control to make an effective international executive organ possible."

The greater part of the book is devoted to showing that, quite outside the treaties concluding great world wars, there have been arrangements creating international executive organs. The author divides these arrangements into three classes: (1) "International administrative organs with little or no real power of control" (p. 13), of which the permanent bureau of the Universal Postal Union is the most important; (2) "International executive organs with real power of control over some local situation within a particular state or states" (p. 14), of which the European Danube commission is the most interesting; and (3) "International executive organs with real power of control over all of the member states themselves" (p. 15), of which the chief is the permanent sugar commission. Examples of the three classes are presented adequately, with notes guiding the reader to documents and discussions.

Finally comes a chapter of conclusions, with subtitles: (1) "Underlying reasons for success or failure" (p. 147); (2) "The unanimity requirement" (p. 151); (3) "Equality of votes" (p. 158); (4) "The chance for success" (p. 166).

Although the text presents facts rather than arguments, it is not overburdened with statistics or other minute details. The result is a clear and readable book. The author's own views are made known; but the facts are stated so fully that the reader has fair opportunity to make up his mind for himself. As has been said, the citations make it possible for the reader to go far afield; and, besides, the appendix of documents gives a most convenient starting point for historical discussion.

By selecting more numerous examples or by dealing at greater length with those selected, the author might easily have made a larger book; and many a reader will wish that he had done so. Yet he has been

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correct in restricting himself to a space so small that no one interested in either promoting or preventing world organization can give adequate excuse for failing to acquire information upon which to base intelligent argument.

EUGENE WAMBAUGH.

Washington, D. C.

How the World Votes: The Story of Democratic Development in Elections. By CHARLES SEYMOUR and DONALD PAIGE FRARY. (Springfield, Mass.: C. S. Nichols Company. 1918. Two volumes. Pp. 392; 344.)

The authors have done us a great service by collecting the facts concerning the world's progress toward democracy as expressed through the ballot and presenting them in a form which is at once intelligible and interesting to the layman and satisfactory to the teacher and student.

Their main title is misleading; the book is not only a statement of "things as they are," but also deals with the subject from a historical and evolutionary point of view; and the chapters devoted to the fascinating story of electoral reform in England are of special zest and interest. The analysis and interpretation of the Representation of the People Act of 1918 is the best which has yet appeared on this side of the water.

To the student, however, the portions of the work which will be of greatest value, are those which deal with the less well-known states such as Italy, Turkey, Japan and the South American Republics. Here the authors have made easily accessible many important facts hitherto unavailable except to the most painstaking inquirers; and the book will be very useful to the college teacher for assignments as collateral reading in courses in comparative government.

Chapter II, on "Mediaeval Elections," might well have been omitted. It is not sufficiently comprehensive to be of much help to the student and it will not present a clear picture of actual conditions to the general reader.

The authors' distaste for footnotes has carried them to the regrettable extent of omitting the sources of direct quotations and of failing to make the necessary cross-references to judicial decisions mentioned in the text. One could also wish that the treatment of nominating methods in countries other than our own had been somewhat more logical and complete.

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Occasionally a conclusion is ventured which will cause a lifting of some eyebrows. Is Sinn Fein "the brain and the heart" of Ireland? (Vol. II, p. 9.) Have the good results of the direct primary in this country been so marked as quite to justify the enthusiasm shown for them? But these things are incidental, almost inconsequential. The tone of the work as a whole is very far from being dogmatic.

Many portraits and illustrations, especially the Hogarth reproductions, add to the value and attractiveness of the book. There is an excellent bibliography and a fair index.

JAMES P. RICHARDSON.

Dartmouth College.

National Governments and the World War. By FREDERIC A. OGG and CHARLES A. BEARD. (New York: The Macmillan Company. Pp. x, 603.)

This book is considerably more than a revision and condensation of Beard's *American Government and Politics* and Ogg's *Governments of Europe.* While those volumes have been freely drawn upon, the sections used have been rewritten and brought up to date. Conceived as a text for the second term of the "War Issues Course" of the late Students' Army Training Corps, the book will now serve as a very timely handbook for the general reader as well as a useful textbook. Either as collateral reading for modern history courses or as a text for classes in comparative government, it should be of much service to the college teacher.

After an introductory chapter on "National Ideals and Government," Mr. Beard, in Part I, discusses the government of the United States. The concluding chapter (VIII) of this section—"Government in War Time"—is an excellent summary of the vast number of recent statutes and executive orders.

In Part II, Mr. Ogg treats the governments of the Allied nations. After seven chapters on the leading phases of English government, an excellent though brief chapter is devoted to the British Empire, especially the self-governing colonies. The constitution, executive and legislature of France are discussed in succinct but adequate form in two chapters, which are followed by a comparison of justice and local government in England and France. A chapter each is given to the governments of Italy and Belgium.

Part III, also by Mr. Ogg, deals with government in the Teutonic states; four chapters being given to Germany and one to Austria-

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Hungary. Especially good is the chapter (xxv) on "Cross Currents in German Politics."

"The War and World Politics" is the title of Part IV, which consists of a chapter by Mr. Beard on "American War Aims in Relation to Government" and one by Mr. Ogg on "The Problem of International Government." The former is mainly a condensation and quotation of the President's war addresses, with brief comment and explanation. This, with the introductory chapter on national ideals and the one on German politics, enables the reader to see at a glance the contrast between democratic and absolutist aims, ideals, methods and results. In the final chapter Mr. Ogg gives a brief, sane and forceful plea for a league of nations.

Throughout the book the historical development of contemporary government is shown, especially in Parts II and III. The style of each author is simple, clear, forcible and interesting, though there are a few instances of clumsy construction. Each chapter is followed by a brief, well-selected bibliography, and the book has a fair index.

MILLEDGE L. BONHAM, JR.

Louisiana State University.

Labor and Reconstruction in Europe. By ELISHA M. FRIEDMAN. (New York: E. P. Dutton and Company. Pp. xix, 216.)

Three premises underlie the plan of this book: (1) that the labor problem is the gravest that the present generation will have to meet; (2) that at bottom this problem is "an intellectual one," since from understanding alone proceed sympathy and conciliation; and (3) that America needs "a knowledge of the nature of the industrial ailments from which European countries have suffered and of the successful methods that have been developed in those countries to mitigate such ailments."

The volume seeks to aid in the solution of the American problem by assembling for convenient reference the various programs of social and industrial reconstruction brought forward since 1914 in England, France and Germany. The result is not a systematic discussion, much less a treatise, but rather a mass of tables, summaries, and quotations, with a certain amount of running comment—in short, practically a sourcebook of contemporary European labor discussion. No particular policy is advocated; no general scheme is sponsored.

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The first chapter enumerates, with the briefest possible description, the reconstruction commissions created in a score of countries during the war period. The second deals, largely in the words of native writers, with the general task of reconstruction as it presents itself to the labor leaders and the statesmen of England, France and Germany. The third takes up in more detail the labor question in Germany and shows how closely German liberal sentiment is in accord with the reconstruction aims of the British Labor party. The fourth deals similarly with the labor problem in Great Britain, and presents synopses of eight or nine specific programs, including those of the Liverpool Fabian Society, the Garton Foundation, the Trade Union Congress, the Whitley Commission, and the Labor party. The volume closes with a useful list of British subcommittees on reconstruction—87 in number—and a reasonably complete bibliography covering Great Britain and France, but containing no titles on Germany.

It would be gratuitous to quarrel with the author for not planning and producing a book on different lines. The history of reconstruction experiments cannot as yet be written, because it is not as yet made. As an intelligently edited handbook of reconstruction schemes (which is all that the author undertook to produce), the present volume serves a useful purpose. The occasional expressions of judgment are generally unexceptionable. The tendency of our written Constitution to impede "free political development" is, however, somewhat overstated.

FREDERIC A. OGG.

University of Wisconsin.

Constitutional Power and World Affairs. By GEORGE SUTHERLAND. (New York: Columbia University Press. Pp. 202.)

The author of this volume, a former United States senator from Utah, discusses in a popular but illuminating manner the extent of the treaty-making and war powers under the United States Constitution. The broad extent of the powers of the general government when dealing with external affairs he deduces from the fact that they are not distributed but vested wholly and exclusively in the general government, and are granted without reservation or exception of any kind. With regard to the war powers the important fact is emphasized that they are vested in Congress except in so far as the functions of the commander-in-chief of the army and navy are in the President. The powers of the President as commander-in-chief are carefully distin-

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guished from those he has as chief executive. In the exercise of the former he is limited only by the usages and customs of war; for the exercise of the latter he must look to the grants and limitations of the Constitution and to the authority given him by acts of Congress. In his last chapter entitled "After the War," Ex-Senator Sutherland takes a measurably advanced ground with reference to military "preparedness;" and with regard to avoiding war is of opinion that "we shall, in the long run, secure better and more lasting results by a gradual extension of the principles and plans already initiated by the Hague Conferences than by adopting the more ambitious and more adventurous plan now suggested for the League of Nations, including as its distinguishing feature the use of some form of international force."

The volume embodies the lectures given in 1918 at Columbia University on the Blumenthal Foundation.

W. W. WILLOUGHBY.

Johns Hopkins University.

Belgium. By BRAND WHITLOCK. (New York: D. Appleton and Company. Two volumes.)

In the summer of 1917 I had the good luck to spend part of a day with Mr. and Mrs. Brand Whitlock at Havre. Our distinguished minister had never looked better; the haggard, strained expression about his eyes which had been so noticeable in Brussels had disappeared; his color was good, and his tall thin figure seemed almost athletic as he strode up the gravel path, thrust open the garden gate, and greeted us. Of course he was writing a book—the book, we suggested. For America's entrance into the war meant, for Mr. Whitlock at least, opportunity to take a well-earned rest and to write. The crushing diplomatic burden which he had borne in Brussels since August, 1914, had slipped easily from his shoulders. A mile or two away, at Sainte Adresse—the Nice of Havre, as guidebooks say—perched on a rocky shelf above the gray Atlantic, the exiled Belgian government had taken root. But Mr. Whitlock's official duties were few and not onerous, and it is to this fortunate circumstance that we owe the volumes before us.

It is now five years since the Germans invaded Belgium, where Mr. Whitlock's narrative begins; it is two years and a half since America declared war, where the narrative ends. Yet the news he brings us is not stale. Other men have told us parts of his story, but he alone has told us the whole of it, and it is a story which will never grow old.

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The volumes are dedicated to Albert I, King of the Belgians, and the opening chapters show us that heroic sovereign riding like a medieval knight through a confused pageant of people springing to arms. But this first fine military phase passed like sunset at the coming of the gray German hordes, and the deepening night of the Belgian captivity almost obliterates the impression made by those earliest days. In Mr. Whitlock's narrative the ante-bellum springtime, when men danced on the verge of the pit, and even the first acts and thoughts of the courageous little Belgian facing the invader seem tragically remote and unreal. One reads them wonderingly. Already they seem like legends of the end of a golden age, clustered about the person of a young and knightly king.

I have said that the story of the Belgian captivity almost obliterates the impression of these earlier chapters. It was a peculiarity of Belgium's sufferings that their horror increased with mathematical precision. The atrocities of the first weeks, at which the conscience of the world cried out, were only straws which showed which way the tempest was to blow; and step by step, page by page, Mr. Whitlock traces the martyrdom of the nation from the burning of Visé and Louvain, and the horrors at Aerschot, Dinant, Andenne and Tamines, down through the fall of Antwerp, through the coming of starvation and its alleviation by Hoover's Commission for Relief in Belgium, through the execution of Miss Cavell, through von Bissing's clumsy attempts to divide Walloons from Flemings, through the organization of economic press gangs, deportations, organized thefts, slavery, and finally to the ghastly hacking up of Belgium into two distinct nations in an endeavor to kill the last vestiges of national pride and hope. The volumes are written with admirable self-restraint and avoidance of the dramatic, yet they are a crescendo of horror.

Detailed study of them shows flaws, of course. Mr. Whitlock has an awkward habit of congesting his pages with first-hand evidence of the atrocities at Louvain and Tamines, for instance, or the tedious documentation of the Belgian advocates' fight for liberty. Anecdotes which would lose no point by translation are given in full in French; and too much care is paid to furnishing us with complete lists of the high-sounding but meaningless names of titled nobodies among "those present" at state dinners and other functions. A friendly critic could have used the blue pencil to advantage on sections having only lyrical interest, and would have called Mr. Whitlock's attention to the need of greater emphasis on those having great and enduring historical signifi-

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cance—the work of the Belgian Relief Commission, to pick only one example. Against the tragic background of a nation enchained it is perhaps expecting too much to wish for more vivid characterizations of the King and of Cardinal Mercier, of Hoover, and von Bissing, and von der Lancken, and Emile Francqui; but at least one portrait is perfectly satisfying and is drawn with masterly skill. It is the portrait of Mr. Whitlock's faithful friend and colleague in Brussels, the Marquis of Villalobar, Spanish Minister to Belgium.

Twenty years ago we were at war with Spain. By the irony or the benignity of fate the only diplomatic representatives who remained in Brussels when the Belgian government withdrew and the Germans came were the ministers of neutral Spain and neutral America, and by singular good fortune they were warm friends and mutally complementary in their characters. It is probably natural that the American press should have ignored the existence of the Spanish minister, but Mr. Whitlock handsomely atones for their neglect. The kind, humorous, skillful Don, so wise and so shrewd, so indefatigable and effective, passes and repasses through these pages. He, like Mr. Whitlock, was a patron of the Hoover commission, and these books are final evidence that his services were invaluable. The friendship and perfect collaboration of these two men was more than a stroke of good luck; it seems like a stroke of fate.

In closing this brief review it is a pleasure to compliment the publishers on the distinguished appearance of the volumes.

EDWARD EYRE HUNT.

New York City.

The Canadian Budgetary System. By H. G. VILLARD and W. W. WILLOUGHBY. (The Institute for Government Research. New York: D. Appleton and Company. 1918. Pp. 282.)

The authors of this, the third of the "Studies in Administration" conducted by the Institute for Government Research, belong to that rare class of social investigators who have something of the chemist's opportunity of isolating his phenomena. The first of the Institute's excellent studies had shown the British financial system to be far superior to that of the United States, and indeed, from the point of view of actual efficiency and of conformity to the requirements of popular government, the most successful in the world. The existence in Canada of the British system in its main features provided an excel-

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lent opportunity of determining how far its efficient operation is due to the formal organization itself and how far to special circumstances and "especially to traditions or conventions which, though without legal force or definite formulation, are none the less effective."

While the description of Canada's constitutional system and the historical résumé of the development of her present budgetary system are necessarily sketchy, they provide a sufficient background for the main part of the work, the nine chapters dealing in detail with the organs, officers, practices and traditions which together constitute Canada's financial system. The admirable final chapter gives a penetrating analysis of the causes which have prevented the system which produced such favorable results in Great Britain yielding similar fruits when transplanted to Canadian soil. These causes hinge upon the failure to adopt certain of the essential mechanical features of the British system, the failure to develop certain standards and fixed customs, and the necessity for a young and rapidly developing country of adopting an elaborate system of public works constructed and controlled or subsidized by the Dominion or provincial governments. The mere shadow of control possessed by the minister of finance over preparation of the estimates and expenditure by the spending departments, the weakness of the treasury board and the failure to centralize responsibility for expenditure, the unwieldy size and partisan make-up of the public accounts committee, the abuse of excess appropriations and of supplementary estimates, expenditure without legislative authorization through governor-general's warrants, juggling with the public accounts through shifting capital and revenue items, the lack of a "treasury conscience," the low standard of political morality, the spoils system, and the system of provincial subsidies—these are the main points which call forth from the authors trenchant criticism and stimulating suggestions for reform.

The book is not without faults. There are a number of errors which, though trivial in importance, yet jar upon the reader. In one or two cases the authors say obviously just the opposite of what they mean (e.g. "never" for "always," p. 165, l. 15; and "condemned" for "justified," p. 282, l. 4). When one recalls such extensive projects as the Ontario Hydro-Electric development, the Temiscaming and Northern Ontario Railway, and the Alberta and Great Waterways Railway system, it seems somewhat of an exaggeration to say that federal encroachment has limited provincial public improvements to the construction of roads, bridges and public buildings. Moreover, anyone

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who is familiar with the hollow partisanship of much of Canadian political criticism is apt to feel that the whole argument of the book depends too much on Hansard. In a volume largely made up of quotations, it is almost the sole authority. This is also partly responsible for the rather gloomy picture which the author gives of the corruption and other political evils in Canadian public life. Perhaps the reviewer's Canadian wish is father to his thought on this point; but the reader of Chapter XII should be warned that the Augean stables in British Columbia, Manitoba and New Brunswick have been cleaned, that the federal government has recently abolished patronage and extended the civil service regulations to the outside service, and that several of the provinces have adopted civil service laws.

On the whole, however, the book is an excellent and opportune one. To reformers in the United States, it will provide a needed corrective to the first volume in the series. To Canadians, who have been lulled into a false sense of security by the presence of an admittedly able finance minister at the helm during the war years and who are just now beginning to realize the necessity for taking serious thought concerning the national finances and even the mere machinery of their government, it will provide an excellent basis for intelligent discussion and an arsenal of offensive weapons against institutions and usages which must go before British financial ideals can be realized.

W. C. CLARK.

Ottawa, Canada.

The Problem of a National Budget. By WILLIAM FRANKLIN WILLOUGHBY. (New York: D. Appleton and Company. 1918. Pp. xiii, 220.)

This is one of the series of studies in administration which have been issued by the Institute for Government Research under Mr. Willoughby's direction. Like its predecessors it is marked by clearness, accuracy and practical application. The problem considered is not any abstract question as to the best form of budget procedure, but it is the practical question how to get budget reform in the circumstances that actually exist in Congress. The discussion keeps in mind the practicable, and prefers that to what might be more desirable if there were any hope of obtaining it; so the work may be described as a plan of budget reform so far as it is possible under present conditions.

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The precision with which the conditions are stated gives special value to the work. The government is viewed as a going concern, and the situation as it exists in the administrative departments and in Congress is presented as the basis upon which any measure must rest. The plan recommended is not radical in its general character. It aims at little more than to systematize and correlate existing agencies. The formulation of the budget by the President, and the formation of a grand budget committee in Congress, are the main features. There are, however, some radical suggestions as to procedure. One of them is an allotment system which would admit of distribution of department grants in accordance with particular needs as they might be developed in the course of actual service. Another is the organization of public services as subsidiary corporations, to which the government would stand in the position of a holding corporation, with Congress as its board of directors. Each of the subsidiary corporations would prepare and account for its own budget, under responsibility to Congress, whose own time and effort would thus be economized, while its powers of intelligent supervision would be correspondingly augmented.

An extremely interesting and valuable feature of the work is its account of precedents showing that these suggestions are not so novel and revolutionary as at first sight they might seem to be. Just such practice already exists, the unobtrusive product of administrative convenience; so all the proposals really call for is a systematic extension of principles of organization already established.

The work closes with an account of the stages of the movement for budget reform up to the present time when it has become an issue on which both national parties are committed to action. The work may be cordially recommended as an intelligent and comprehensive statement of the case as it is now pending. It would be too much to say that the changes proposed would provide an entirely satisfactory solution of the budget problem. No such claim is made; but they would accomplish great improvement, and they have the merit of aiming at what is attainable, and of establishing lines on which budget reform might reasonably be expected to make safe progress.

HENRY JONES FORD.

Princeton University.

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Budget Making in a Democracy. By E. A. FITZPATRICK. (New York: The Macmillan Company. 1918. Pp. x, 317.)

This book contains much useful information and comment regarding the many aspects of the budget problem as it affects our national and state governments. The major portion of the book is devoted to a somewhat violent attack upon the so-termed executive budget, which the author deems to be an autocratic device. His main proposition is that "budget-making must in the final analysis be a legislative function, and American democracy will not if it knows what it is doing, tie the hands of the legislature in any way in the legislative process" (p. 126). His optimism regarding the legislative budget seems to be due, in part at least, to his special experience in Wisconsin, from which he draws by far the larger part of his illustrations of state practice. This portion of his book contains much of truth, mixed with question-begging arguments, and loses something in impressiveness from a lack of judicial poise.

The author, however, admits that under present conditions the legislature is far from being a suitable organization for carrying out the budget-making process. He thinks that the legislature may be made an efficient budget-making authority by changes in its rules and in the organization of its committees. He also favors lump sum rather than segregated appropriations and continuing appropriations, requiring positive action on the part of the legislature to repeal, rather than mere failure to act, in the case of the well-established services. He considers the governor's veto of items as a useless and even vicious device.

The book shows signs of having been somewhat hastily put together. It contains no index.

J. M. MATHEWS.

University of Illinois.

The Five Republics of Central America. By DANA G. MUNRO. (New York: Oxford University Press. 1918. Pp. 319.)

The author has traveled from one end of the region he describes to the other and the value of his book lies even more in the information acquired from contact with the people he met than in the results of his extensive library research.

The first half of the volume discusses the characteristics of the republics. The contrasts between their civilizations and the seeming

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contradictions within their borders are excellently outlined as a background for the discussion of general governmental problems.

Bad communications, poor markets, defective medical service, local feuds, a population of mixed blood, corruption in public office, personalism in politics, and unsatisfactory educational systems, these, with exceptions which relieve the picture but make it only more complex, are the background of Central American life and politics.

But Central America is progressing. The influence of the United States, economically and politically, has promoted stability. Its action in continuing to maintain a marine force in Nicaragua is not considered wise, nor the policy of our department of state such as has always inspired confidence in the purity of its motives. The refusal to recognize the results of revolution in Costa Rica is shown to involve principles which it may be impossible to sustain. Our action also in helping to set up the Central American Court of Justice and then allowing a situation to develop which has brought the court into discredit is criticized. The canal route treaty with Nicaragua comes in for trenchant comment. Still, with all these shortcomings, the well-intentioned, though sometimes inconsistent and often misunderstood policy of the United States, has helped the little republics to advance far more rapidly than they could have done alone.

What has been done is however only earnest of the possible improvement. The government can hardly avoid deciding what parties within the republics represent the better elements and giving them its active support. It must aid in refinancing the governments. It must continue to frown upon revolution, select as its own representative only men who understand the customs and language of the people, cultivate the establishment of cultural ties between Central America and the United States, encourage the extension of the work of American philanthropic institutions and see that no occasion arises when the disinterestedness of its own motives can be questioned. If such a policy is followed the author believes that true self-determination will come in the states of Central America united in a single government.

There are few first-class books in English about Latin American countries. This is one. It should be read by all those who wish an insight into the perplexities of Central American politics, national and international.

CHESTER LLOYD JONES.

University of Wisconsin.

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Foreign Financial Control in China. By T. W. OVERLACH. New York: The Macmillan Company. Pp. 281.)

Foreign financial control is the subject of discussion in this book. Its treatment discloses the fact that "financial control" is not in reality a purely financial matter as applied to China, but that in it are involved political motives and imperialistic considerations. The author, however, endeavors to bring out in relief the purely financial content of the question, as it developed in the history of the relations between the various occidental powers and China, particularly in the period from 1895 to the present time, and suggests a concentration of attention on the financial aspect of the problem with the object of formulating an enlightened policy toward China.

The Chino-Japanese War in 1895 revealed the extent of China's weakness. Armed with this knowledge, the powerful and ambitious western nations, later joined by Japan, began a systematic encroachment on China, with the assurance that the Chinese could offer no serious resistance to the advancement of their purpose. To achieve their end, two most subtle instruments were used—subtle in that they do not on the surface disclose any political purpose or imperialistic design. These instruments were the railway contract, which was the first and is still the most potent weapon, and the public loan agreement, which became an instrument in the hands of the powers out of the chronic poverty of the Chinese national treasury in recent years. Thus the phrase "conquest by railroad and bank" is not fanciful as applied to China.

By railway concessions, embodied in agreements carefully constructed with a view to its special interest, each power sought to mark off sections of the country as its "sphere of interest" or region for its exclusive exploitation, in which it may ultimately acquire not only predominant economic, but also political power. Thus we find Japan segregating South Manchuria as her special sphere; Russia, North Manchuria; and France, the southwestern provinces of China. There arose naturally keen competition among the powers, involving diplomatic intrigue and pressure, in this great game of concession getting. In it is observed the close coöperation between foreign finance and foreign policy. The rivalry has been motivated not only by "money interest," but also by the desire of each country to match up what others gained, which in any way would enhance their prestige in the circle of great powers.

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While all aimed to obtain spheres of interest, there was a difference in the underlying motive in the policy of the great powers regarding control. In his book, Mr. Overlach shows the difference by an analysis of the most representative railway contracts, in the selection of which is to be observed the author's fine discrimination. Thus the control over a railway built by the capital of their citizens ordinarily desired by the British government is strictly financial in nature—such control as would assure the safeguarding of the investments as to principal and interest, and to sharing of profits, where this right has been obtained. Similarly the government of the United States would countenance no other kind of control to be acquired by her citizens in China. On the other hand, Russia, Germany, France and Japan have shown both economic and political and imperialistic motives in their policies. Mr. Overlach makes his analysis to discover the nature and extent of control desired and obtained by the several powers by devoting a chapter to the activities of each. We see from the accounts occasions for conflicts among the powers in the pursuit of their particular national interests.

Out of the clash of interests came the realization of the advantage of international participation and international coöperation of the powers in railway projects, examples of which we find in the agreements for the construction of the Tientsin-Pukow Railway and the Hukuang railways, comprising several trunk lines. Such international participation and coöperation, Mr. Overlach views with favor. He commends the adoption of this principle of international participation and coöperation, with "international control," in the future not only in railway and other large industrial projects, but also in loans to the Chinese government for administrative purposes. This recommendation he puts forth in the chapter entitled "International Control" and the concluding chapter of his book. He believes that the policy will be successful if the four great powers, the United States, Great Britain, France and Japan, will combine in the enterprise. He seems to take too sanguine a view of the Lansing-Ishii agreement of November, 1917, as affording a "foundation for a financial coöperation" between Japan and the United States, a view which we can hardly share in the light of recent events, particularly the settlement of Shantung, and the ignoring of the treaty of 1915, imposed on China by Japan, at the Paris Conference. Granting that the powers will cooperate, then the vital problem is the device of a "working formula" which is not only financially effective from the point of view of the

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mutual economic interest of the powers, but also just and fair to China. Any other sort will fail in the end.

Whatever may be the policy of the powers regarding investment in China in the future, Mr. Overlach has done a valuable service to bankers, investors, merchants and manufacturers of the countries concerned by giving them a clear picture and understanding of the conditions of international investment and exploitation in China up to the present time, thus aiding them to promote the working out of a wise policy for the future, which shall make for mutual advantage and fairness not only for the investing countries, but also for China. His service should be particularly valuable to business interests in the United States, because the present supreme financial position of the country and her broadened international outlook must inevitably draw her into the solution of the problem. In a profound sense, international peace will depend on a wise and just solution of this very problem of international investment in China. A wise solution requires, we believe, the dissociation of the purely financial, which the problem is, from the political, with a renunciation of imperialistic designs on the part of the powers.

LOY CHANG.

Boston, Mass.

The Legal Obligations Arising out of Treaty Relations between China and Other States. By MIN-CH'IEN T. Z. TYAU, LL.D., with preface by Sir John Macdonnell and Wu Ting-Fang. (Shanghai: Commercial Press, Ltd. 1917. Pp. xxii, 304.)

China's New Constitution and International Problems. By MIN-CH'IEN T. Z. TYAU, LL.D. (Shanghai: Commercial Press, Ltd. 1918. Pp. xv, 286.)

These are important books. They are the product of the new spirit which is manifesting itself in China in many forms. They recognize the obligations of China as a member of the family of nations, and at the same time they are a protest against the long invasion of her rights which she has suffered at the hands of other powers. China is to be congratulated that she has in the person of Dr. Tyau a scholar trained in the international law of the occident who in these two books discusses with learning and acumen the international and constitutional problems with which his country is now wrestling.

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The first of these books is the only work in English which gives a comprehensive view of China's treaty relations. After a brief sketch of the series of compacts made by China from the Russian treaty of 1689 (her first international agreement) to the Urga convention made with the same power in 1916, the author proceeds to analysis of the treaties now subsisting between China and the eighteen countries with which she has conventional relations. These are arranged in three groups—those of a political character, dealing with such subjects as consular jurisdiction, concessions and settlements, and leased territories; those of an economic character, covering such subjects as the right to trade and residence, tariffs, inland navigation, railroad construction, and loans; and treaties of a general character in which are included provisions as to the protection of foreigners, religious toleration, reciprocity and the most-favored-nation clause. This analysis of the treaties is followed by a strong plea for their revision, on the ground that many of their provisions are so vague as to invite contention, and on the further ground that circumstances have so changed since they were formulated and the international status of China has been so fully recognized that they are now both humiliating and unjust.

Of the second volume under review about one-half is devoted to a summary of the first volume. In the interval between the publication of the two books, China became a belligerent, and through her representatives at the Peace Conference she may be expected to protest against the continuance of the treaties which have been forced upon her. The Chinese question may play a part in the Peace Conference of 1919 analagous to that which Cavour made the Italian question play in the Congress of Paris of 1856. The first part of the book is a valuable discussion of the provisions of the Chinese constitution of 1916-17 which came to an untimely end through the illegal dissolution of parliament. Many comparisons are made with the constitutional provisions of other countries, and some readers will perhaps be a little startled to note that while there are eight references in the table of contents to the Constitution of the United States there are seven to that of Brazil. American scholars might well follow Dr. Tyau's example and devote more attention to the prodigious governmental achievements of the great republic of South America.

LAWRENCE B. EVANS.

Washington, D. C.

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The Great European Treaties of the Nineteenth Century. Edited by Sir AUGUSTUS OAKES, C.B., lately of the Foreign Office, and R. B. MOWAT, M.A., Fellow and Assistant Tutor of Corpus Christi College, Oxford, with an introduction by Sir H. Erle Richards, Professor of International Law and Diplomacy in the University of Oxford. (New York: Oxford University Press. 1918. Pp. xii, 403.)

This book appeared last year, some time before the end of the great war could be seen. Yet it is only incidentally a war book; and there is scarcely a tinge of belligerent bias in it. The conclusions in the chapters on Belgium and the Franco-German war rest on facts and documentary evidence judiciously selected.

Nowhere else can be found in one volume an exposition of eleven leading phases of the diplomacy of the last century with the treaties pertaining thereto included. Among these phases are the Congress and the Treaty of Vienna, the neutralization of Belgium and of Luxemburg, the question of the Danish duchies, the rise of a united Italy, Prussia and Austria and Prussia and France, the formation of the Triple Alliance, and as clear an account as possible of the chief negotiations which attempted to settle the disputes relating to the Balkan powers. Chapter I deals with the technical aspects in the making of treaties, such as the forms of international contracts, full powers, ratification, and the interpretation of treaties. Professor Richards of Oxford, counsel for Great Britain in notable arbitration cases, writes the introduction. Besides serving as such the introduction deserves to be included as one of the chapters because of its concise statement of the effect of war on treaties.

The conspicuous feature about the work is the use which the editors have made of sources. The value of treaties, accurately verified, is appreciated, not only as supplementary to the text, nor as the mere basis for it, but as the literature that deserves above all to be read. For this the editors deserve special commendation.

CHARLES E. HILL.

George Washington University.

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The Immunity of Private Property from Capture at Sea. By HAROLD SCOTT QUIGLEY, Ph.D. (Madison, Wisconsin. 1918. Bulletin of the University of Wisconsin, Economic and Political Science Series, Vol. IX, No. 2. Pp. 200.)

Dr. Quigley realizes that capture of enemy property cannot be separated from other factors involved in a "system for the control of enemy trade" (p. 191), hence does not hesitate to give attention to contraband, continuous voyage, visit and search, destruction, war zones and, to a less degree, blockade. The synthesis of relevant treaty provisions since the 15th century, frequently quoted at length, is among the most valuable features of the book. The evidence shown of steady progress toward acceptance of first, the Dutch rule, and then the rule of the Declaration of Paris, as opposed to the original rule of the *Consolato del Mare*, well illustrates the value of treaties as sources of international law, while the query "whether the Declaration of Paris did not grant a degree of immunity greater than the spirit and conditions of the period justified" (p. 191), shows their limitations as sources of general law. In the chapter on the opinions of text writers (IV), the interplay of principle and national policy in the formation of law is brought out.

The summary of belligerent practices during the present war seems to bear out the author's conclusion that "the movement for the immunity of all private property from capture at sea can not be expected to raise the superstructure of legal limitation until the foundation shall have been strengthened" (p. 178). L. A. A. Jones would be more recognizable as L. A. Atherley-Jones; the Swiss-British publicist Oppenheim, should not be classed as a German (pp. 85, 91); and the omission of the Naval War College, *International Law Situations*, from the bibliography is surprising, but in the main the work is accurate and complete.

QUINCY WRIGHT.

Harvard University.

A Century of Negro Migration. By CARTER GODWIN WOODSON. (Washington: The Association for the Study of Negro Life and History. 1918. Pp. 192.)

Dr. Josiah Strong once said to the writer of this review: "The greatest problem in America today is the problem of how one race can live

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within the heart of another race, both races live in peace, and out of the two races build one nation."

This book by Dr. Woodson is not an attempt to answer that question, but rather to show the migrations of the one race within the heart of the other and what results have followed each migration. Many signs pointed to the abandonment of slavery, at the opening of the nineteenth century. The invention of the cotton gin, however, changed the economic aspect of the modern world and riveted more firmly than before the shackles of bondage for the black man. Now we follow that renewed struggle for freedom. Quakers and Mountain Whites gave great assistance to escaping negroes. The many attempts at colonization are rehearsed. A strange tale it is. The close of the Civil War found thousands of negroes congested in the camps. What to do with them was a problem to tax the wisest. Slowly there emerged those relief societies whose names remain today in veneration. With the great settling down after the war, conditions became unbearable, especially for the more enlightened negroes, so gradually "the talented tenth" moved north or west leaving an almost hopeless condition for those who must remain.

But the greatest migration of all has taken place during our world war. Dr. Woodson presents two reasons for the movement. The first and fundamental one is that of the ill-treatment of the negro in the South. The second is that of improved economic conditions for him in the North. This great movement is fraught with much danger for both races. The author fears that new frictions will lead to new prejudices in the North so that ill-treatment of the negro will become national. His only hope is that sufficient numbers of blacks will congregate in the great centers to become an economic and political power.

But he trusts they will not be unwisely led to believe their only hope lies in sending black men to Congress. He advises that they center on the best men of any color or party, seeking to obliterate racial lines.

Dr. Woodson evidently cherishes the hope that the South will waken to the fact that the negro holds its economic future in his hands, and will thus be constrained to accord a just treatment for the sake of self-preservation. He feels that the present migration will eventually equalize the strain in both North and South, and that the negro will ere long secure his rights and his proper recognition by maintaining the balance of economic power which shall be his.

J. STANLEY DURKEE.

Howard University.

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The Results of Municipal Electric Lighting in Massachusetts. By EDMOND EARLE LINCOLN. (Hart, Schaffner & Marx Prize Essays, XXVII. Boston and New York: Houghton, Mifflin Company. 1918. Pp. xx, 484.)

For the purposes of this study, Mr. Lincoln compares thirty-nine public with thirty-three private electric lighting plants in Massachusetts towns and cities varying in size from a few hundred to over sixty thousand inhabitants. The first part of the work is a highly detailed comparative analysis of the physical, operating, and financial statistics of the two groups of plants (Chs. III–X). Then follows a statement of the findings of a "local survey," in which the author personally inspected a number of plants to test his preliminary conclusions (Chs. X–XIII). The book closes with a chapter of general conclusions (XIV), a well arranged bibliography, a statistical appendix and a somewhat perfunctory index.

All things considered, the author is to be congratulated upon having made a penetrating local study in an extremely important field, and upon having produced a very useful book. The thoroughness, insight, and scholarship of his contribution we have no right to deny. He has combined a first-hand study of the plants themselves with an illuminating analysis of their official returns—a rare feat for a student of public ownership. As unrelenting as it is obviously truthful, his exposé of small town and small city inefficiency will give several bad hours to any thick and thin advocate of municipal ownership who has the courage to read it through.

Despite its general excellence, however, the book lays itself open to some adverse criticism. Thus it must be said that the review of the literature on municipal electric lighting in the first chapter would have been equally useful if it had been less caustic. Then, too, the title of the book is a bit too inclusive; the author really deals with financial and operating results almost exclusively (p. 367). The pose of "mental neutrality" (p. 75) is, moreover, somewhat affected. There is no moral and little intellectual value in neutrality as such. The writer is really an honest and ardent partisan of business efficiency. He found it impossible to remain "neutral" on the question of public ownership in view of what he learned.

His error at this point, if such it be, is perhaps that he takes the virtues of private ownership too much for granted while he neglects its vices, whereas municipal ownership is constantly put on its own

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defense. He is studying municipal ownership, not private enterprise (p. 363). Hence, in making comparisons, when the returns are favorable on their face to private operation, they are passed over with little comment. When the opposite condition appears, however, the figures are traversed and analyzed with the greatest care, and the apparent advantage is probably explained away. Thus the saving resulting from the apparently low cost of street lighting by the public plants fades into nothingness (pp. 225–240), and the excellent physical showing of the Holyoke and Norwood public plants is explained as "probably accounted for by local conditions rather than by good management solely," and the fact that they "have a more favorable territory, due to no efforts of their own" (pp. 151–152). Three times we are assured, twice in italics, that the author is comparing the municipal plants with the smallest and "most inefficient" private plants in the state (pp. 82, 84, 86), and it is only by a somewhat careful reading of the text and study of the tables that we learn that the municipal plants in the comparison are still smaller and are located in much less populous communities (pp. 81, 144–145, 159–160). It would scarcely have been fair to have compared the public plants of Merrimac or little Paxton with the far-flung system of the Boston Edison Company.

The author does not fail to draw from his study of these small municipal plants in Massachusetts a general conclusion adverse to municipal ownership (pp. 367-369). Considering the peculiarities in the Massachusetts situation we do not think that this conclusion so clearly follows. But to say these things in the opinion is not to change the verdict that the book as a whole is excellent and will take a high place in the literature on municipal ownership.

WILLIAM ANDERSON.

University of Minnesota.

MINOR NOTICES

Four small volumes, recently published, deal with different phases of the problem of international organization. Taken together, they complement each other, and present a progressive development of the issues involved.

In *A Society of States* (Dutton, pp. 243), W. T. S. Stallybrass, the Vice-Principal of Brasenose College undertakes to establish two propositions: "First, that the doctrine of the absolute sovereignty and inde-

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pendence of States, whilst in its day it met a need of the times and was an instrument of progress, no longer serves a useful purpose, for it is not in conformity with fact; secondly, that whilst the League of Nations does undoubtedly involve a rupture with the theories which have dominated the last three centuries, it does not involve so great a departure from the practices of the recent past as is sometimes supposed."

Professor Oppenheim's lectures on *The League of Nations* (Longmans, Green and Co., pp. 84) sets forth more definitely the aims of the proposed League of Nations and discusses problems of organization and legislation, and the administration of justice and mediation. He considers a league of nations essential to a real international law.

Dr. James Brown Scott has presented an analysis of James Madison's *Notes on the Federal Convention of 1787* (Oxford University Press, pp. 149), with special reference to the problems analogous to those found in the organization of a league of nations.

More journalistic in style is Mr. Lippman's booklet, on *The Political Scene* (Henry Holt and Co., pp. 124) which discusses the policy of the United States towards the league. While advocating some amendments in the original draft of the league covenant, he supports it in the main as a necessary basis for reconstruction, to avoid reaction to the old European system on the one hand, or Bolshevist revolution on the other.

A monograph on the *Legal and Political Status of Women in Iowa*, by Ruth A. Gallaher is published by the State Historical Society of Iowa (Iowa City, pp. 300). The author traces the history of the movement for equality in legal and political status on the part of women during the period from 1838 to 1918. Her discussion is confined to a single state, but the experience of Iowa is fairly typical of the development of the movement throughout the northern part of the country. In the second portion of the book there is also an admirable historical essay on "Equal Suffrage in the United States." Attention may be called, likewise, to the chapters on "Women and the Criminal Law" and on the "Property Rights of Women" as lucid expositions of some rather complicated historical developments.

The *American Year Book* for 1918 contains a complete digest of events during a stirring period. The book is divided into thirty-one sections which cover all that has taken place in the fields of war, politics, busi-

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ness, science, art and education during these twelve months. Particular attention is given to the closing phase of the great conflict, to the food situation, the events leading to the adoption of the eighteenth amendment, and to labor questions. As a book of ready and accurate reference the *American Year Book* has become indispensable to every student of public affairs.

The volume by Samuel Gompers on *American Labor and the War* (N. Y., George H. Doran, pp. 377) contains the principal addresses delivered by the author during the last couple of years. They deal with a wide variety of topics but all of them are directly or indirectly concerned with the relations of labor to the issues of the great struggle. The latter part of the volume is devoted to the republication of five reports adopted in conventions of the American Federation of Labor during the war period.

War Borrowing, by Jacob H. Hollander (Macmillan Co., pp. 215) is an examination of the part which public credit has played in our national defense during the war period. Particular attention is given to the system of anticipatory borrowing by means of treasury certificates of indebtedness. While the author regards our methods as having been sound and admirable in the main, he points out some features which he looks upon as serious lapses from good financing.

A booklet entitled *Our Public Debt*, issued by the Bankers Trust Company of New York City, gives a concise account of national borrowings from the funding of the Revolutionary debt down to the present day. The material has been compiled by Harvey E. Fisk.

Professor E. W. Kemmerer has issued a second and revised edition of his little monograph on *The A. B. C. of the Federal Reserve System* (Princeton University Press, pp. 90).

In *Prime Ministers and Others* (Scribner's, pp. 345) George W. E. Russell presents a series of brief personal impressions and reminiscences of British premiers from Lord Palmerston to Campbell-Bannerman, with other short essays on religion, politics, education and miscellaneous subjects.

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The subject of Arthur D. Elliot's *Traditions of British Statesmanship* (Constable and Co., pp. 231) is better indicated by the subtitle: "Some Comments on Passing Events." After a brief discussion of the continuity of British foreign policy and events at the outbreak of war, the main body of the work deals with problems of internal politics during the war.

W. L. Leavitt's *Shop Committee* (Macmillan Co., pp. 105) is a statement of the author's experience during the war as an administrator for the National War Labor Board. The shop committee is a new thing in industry and no attempt is made to place any final evaluation upon it. The book merely indicates what these committees are and how they do their work.

Dr. Richard C. Cabot has published, through Messrs. Houghton, Mifflin Company, a small volume of essays on *Social Work*. The essays deal chiefly with the duties and equipment of social workers in relation to the prevention of disease and the helping of the sick.

The Law of Struggle, by Hyman Segal (N. Y., Massada Publishing Co., pp. 161) is a study of the psychological, moral, political and economic aspects of struggle or conflict.

Bulletin XIV of the American Judicature Society contains a schedule of proposed *Rules of Civil Procedure*, supplementing previous bulletins and representing several years of intensive work. This should prove helpful wherever serious efforts are made to simplify judicial procedure and develop rules in a consistent and scientific manner.

The first volume of *American Leaders*, by Walter Lefferts (Philadelphia: J. B. Lippincott Co., pp. 329) contains short, popular sketches of twenty-one Americans of all types from Benjamin Franklin to David Crockett. The book is intended for use in the fifth grammar-school grade and is written in consonance with the recommendations made some time ago by a committee of the American Historical Association.

Under the title of *The Traffic Field* a volume has been published by the La Salle Extension University on various phases of traffic management. A chapter on "Public Utility Commission Work" is of interest to students of political science.

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William Henry Moore's *The Clash: A Study in Nationalities* (N. Y., E. P. Dutton and Co., pp. 333) has run into its seventh edition and has stirred up new interest in the roots of Anglo-French rivalry in Canada. The book deals with the whole problem of recalcitrant Quebec in a new and interesting way.

The Colver Lectures at Brown University, delivered by William Roscoe Thayer, have been published by Messrs. Houghton Mifflin Co. under the title *Democracy: Discipline: Peace* (pp. 124). The lectures deal with the fundamental nature of democracy—its doubts and ideals—in the light of the great conflict.

Social Process, by Professor Charles Horton Cooley, of the University of Michigan (Scribners'), contains several chapters of special interest to students of political institutions. Chapter 14 discusses discipline in democracy; chapter 22, on group conflict, traces the trend from war to democracy and humanism; chapter 23 treats of social control in international relations; chapter 24 deals with the class-conflict theory and race problems; and chapter 31 touches briefly on public opinion as an organic process.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

BOOKS AND PERIODICALS

BEATRICE OWENS[1]

AMERICAN GOVERNMENT AND PUBLIC LAW

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